

Commission on Peace Officer Standards and Training

POST Budget Review Committee

MINUTES

August 23, 1979
POST Headquarters
Sacramento

The meeting was called to order at 1330 hours by Committee Chairman Nathaniel Trives. Present:

Nathaniel Trives	- Chairman
Jacob Jackson	- Member
Edwin McCauley	- Member
Louis Sporrer	- Member (Alternate)
Robert Edmonds	- Commissioner, Visitor (departed at 14:30)

Committee Members absent:

Brad Gates
Kay Holloway

Staff present:

Norman Boehm	- Executive Director
Brad Koch	- Director, Operations Division
Gerald Townsend	- Director, Administration Division
George Williams	- Chief, Center for Police Management
John Kohls	- Chief, Standards Validation Unit
John Berner	- Research Specialist
Imogene Kauffman	- Executive Secretary

The Committee met to discuss the budget change proposals and issues surrounding those proposals for F.Y. 1980/81 budget. The Committee recommendations will be presented to the Commission at the October 25-26 Commission meeting.

The Executive Director introduced the following items needing recommendations by the Budget Committee:

A. Move to the New Department of Justice Facility

POST is committed to move into the Department of Justice facility under construction and anticipated to be completed for occupation by POST during 1980/81 F.Y. The cost associated with this move must be reflected in the budget and constitutes a budget change proposal. The funds requested by this budget revision are to provide movable partitions, task lights for each work station, a new Centrex phone system, and the cost of moving POST's furniture and equipment to the new location.

Minutes - Budget Review Committee, cont.

COST:

Movable partitions - 857 linear ft. @ 44.52 ft.	\$ 38,152
Task lights - 80 @ 100	8,000
Telephones - relocation of system	3,648
Moving cost	<u>2,000</u>
	\$ 51,800

MOTION - McCauley, second - Sporrer, carried unanimously that it be the recommendation of the Budget Committee to the Commission that a budget change proposal be approved for the 1980/81 F.Y. budget for the estimated cost of \$51,800 to cover the cost of the move of POST headquarters from the present location to the DOJ facility now under construction.

B. Budgeting of Half-Time Position in Administration Division

At its April 1979 meeting, the Commission approved POST to assume the total personnel function and not renew the contract with the Department of Justice. Department of Finance's position was that addition of a half-time person at POST at a cost of \$ 5,638 was to be offset by the deletion of a full-time position in the Department of Justice, contracted for \$ 9,271.

MOTION - Jackson, second - Sporrer, motion carried (No- McCauley) that it be the recommendation of the Budget Committee to the Commission for approval of a budget change proposal for the 1980/81 F.Y. budget, requesting that a one-half time office assistant II position be administratively established during F.Y. 1979/80, resulting in a decrease of \$3,633.

C. Program Activity Analysis Report

Discussion was held on the 1980/81 projections of \$13,500,000 in revenue; \$11,652,392 in reimbursements; and the reserve of approximately \$2,700,000 -- \$1,000,000 of which is established reserve.

The Executive Director reported that it has been ascertained that it is not practical nor perhaps even possible to change the Basic Course distribution formula for this year using the unappropriated 1.7 million dollar reserve. Because of the many unknown factors in the present economy which might affect revenues in the immediate future, POST would be better advised to use the surplus over the 1 million dollar required reserve (1.7 million) in next year's budget. Moreover, salary increases and commitments for reimbursement incurred in 1978-79 F.Y. will fall due in 1979-80. These and other pressures will tend to erode the \$1.7 million significantly.

Minutes - Budget Review Committee - cont.

Another consideration is the unknown effect on the P.O.T.F. of Los Angeles Sheriff's Department negotiating a Memo of Understanding, which states every deputy shall receive training in a POST-certified course at least once every year. While POST supports increased training levels, the pressure on the \$2 million cap for AO Courses should be on the agenda at the October meeting as a policy issue -- not associated with any particular department.

Following discussion, a motion was made and seconded to change reimbursement projection for F. Y. 1980/81 from 11.6 million dollars to 12.5 million dollars and consider the possibility of increasing revenue projection to 14 million dollars, if additional data would justify that figure. This motion was amended to read:

MOTION - McCauley, second - Jackson, carried unanimously that it be the Committee's recommendation to the Commission that all data available be examined and the projected revenue be adjusted accordingly from the estimated \$13,500,000 (to approximately \$14,500,000), and that the reimbursement projection be adjusted from 11.6 million dollars to 12.5 million dollars if the required 1 million dollar reserve could still be maintained.

D. Computer Funding: Lease vs. Purchase

Dave Wallis reported on the status of implementation of the automated data processing system, and presented the following staff recommendation:

1. That an equipment lease be pursued and approval obtained from the State Department of Finance and the State Office of Procurement -- as opposed to purchasing a turnkey system.

The lease alternative is recommended based upon the following considerations:

- It costs less to lease based upon the life expectancy of three years for the equipment.
- The lease alternative provides the quickest system "start-up" time to respond to POST's immediate needs.

The number of staff requested for the proposal includes three researchers, one assistant researcher, and two clerical support positions. The annual salary cost would be approximately \$185,000.

Minutes - Budget Review Committee - cont.

MOTION - McCauley, second - Jackson, carried unanimously to support the staff recommendation that it be the Committee's recommendation to the Commission that staff may pursue the writing of a budget change proposal of approximately \$185,000 for continuation of the Validation Unit's functions in F.Y. 1980/81, and negotiate with the state control agencies for implementation of this proposal.

F. Executive Training

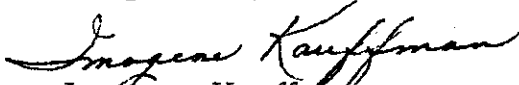
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There was also discussion on the need to raise the POST image by substantially identifying POST with the training programs that are POST-funded. The standard might be that it be clearly stated on certifications that POST is putting on the training, and the vendor is conducting it.

G. Adjournment

Chairman Trives thanked the Committee for the excellent dialogue and adjourned the meeting at 3:45 p.m.

Respectfully submitted,


Imogene Kauffman
Executive Secretary

Commission on Peace Officer Standards and Training

POST Budget Review Committee

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POST Headquarters
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Minutes - Budget Review Committee, cont.

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Discussion was held on the 1980/81 projections of \$13,500,000 in revenue; \$11,652,392 in reimbursements; and the reserve of approximately \$2,700,000 -- \$1,000,000 of which is established reserve.

The Executive Director reported that it has been ascertained that it is not practical nor perhaps even possible to change the Basic Course distribution formula for this year using the unappropriated 1.7 million dollar reserve. Because of the many unknown factors in the present economy which might affect revenues in the immediate future, POST would be better advised to use the surplus over the 1 million dollar required reserve (1.7 million) in next year's budget. Moreover, salary increases and commitments for reimbursement incurred in 1978-79 F. Y. will fall due in 1979-80. These and other pressures will tend to erode the \$1.7 million significantly.

Minutes - Budget Review Committee - cont.

Another consideration is the unknown effect on the P.O.T.F. of Los Angeles Sheriff's Department negotiating a Memo of Understanding, which states every deputy shall receive training in a POST-certified course at least once every year. While POST supports increased training levels, the pressure on the \$2 million cap for AO Courses should be on the agenda at the October meeting as a policy issue -- not associated with any particular department.

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Dave Wallis reported on the status of implementation of the automated data processing system, and presented the following staff recommendation:

1. That an equipment lease be pursued and approval obtained from the State Department of Finance and the State Office of Procurement -- as opposed to purchasing a turnkey system.

The lease alternative is recommended based upon the following considerations:

- It costs less to lease based upon the life expectancy of three years for the equipment.
- The lease alternative provides the quickest system "start-up" time to respond to POST's immediate needs.

Minutes - Budget Review Committee, cont.

- The leasing means is more adaptable for accommodating POST's future data needs which are not yet clearly defined.
 - Because computer technology changes rapidly, the lease alternative allows easier upgrading to more advanced equipment as it is developed.
 - POST will not be "stuck" with possible obsolete equipment three years from now.
2. Authorize the Executive Director to contract for various necessary services and materials in an additional amount, already authorized, not to exceed \$48,000. This represents a total investment this year of less than \$100,000 under the lease arrangement. Subsequent years' costs will be approximately \$30,000 each for the period of the lease.

- Because computer technology changes rapidly, the lease alternative allows easier upgrading to more advanced equipment as it is developed.

- POST will not be "stuck" with possible obsolete equipment three years from now.

2. Authorize the Executive Director to contract for various necessary services and materials in an additional amount, already authorized, not to exceed \$48,000. This represents a total investment this year of less than \$100,000 under the lease arrangement. Subsequent years' costs will be approximately \$30,000 each for the period of the lease.

Already authorized: \$ 32,000 -Data conversion of peace officer
and course files.
20,000 -Invitation for bid.

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MOTION - Jackson, second - McCauley, carried unanimously for adoption of the above-described staff recommendations.

E. Standards Validation Unit

The Executive Director presented factors to support a proposal that the federally funded Validation Unit be continued after the expiration date of April 1980 by inclusion of a budget change proposal in the F. Y. 1980/81 budget. To ensure that the resources POST makes available to local government is as effective an investment as possible, the value of making permanent its research resources must be considered. The investment return is potentially three-fold;

1. Measurability of effectiveness of training in the field.
2. A savings potential on the part of local government by using scientifically verified methods and techniques at their volition.
3. The potential for reimbursement to the P.O.T.F. for the developmental work done by POST that could be packaged and made available in other states.

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The number of staff requested for the proposal includes three researchers, one assistant researcher, and two clerical support positions. The annual salary cost would be approximately \$185,000.

Minutes - Budget Review Committee - cont.

MOTION - McCauley, second - Jackson, carried unanimously to support the staff recommendation that it be the Committee's recommendation to the Commission that staff may pursue the writing of a budget change proposal of approximately \$185,000 for continuation of the Validation Unit's functions in F.Y. 1980/81, and negotiate with the state control agencies for implementation of this proposal.

F. Executive Training

Some thoughts were informally explored that POST might consider doing more in the way of developing an Executive Course plan and submit it to the Commission in the future.

There was also discussion on the need to raise the POST image by substantially identifying POST with the training programs that are POST-funded. The standard might be that it be clearly stated on certifications that POST is putting on the training, and the vendor is conducting it.

G. Adjournment

Chairman Trives thanked the Committee for the excellent dialogue and adjourned the meeting at 3:45 p. m.

Respectfully submitted,


Imogene Kauffman
Executive Secretary

Memorandum

POST Budget Review Committee

Date : August 17, 1979

Norman C. Boehm, Executive Director

From : Commission on Peace Officer Standards and Training

Subject: August 23, 1979, Budget Committee Meeting, 1980/81 Budget Review

INTRODUCTION

A meeting of the Budget Committee has been called by Chairman Nat Trives to be held on Thursday, August 23, 1979, from 1:30 p.m. to 4:30 p.m. in the POST Conference Room in Sacramento. This agenda memo is to advise the members of the Committee of the items that will be on the agenda for that meeting.

Members of the Committee are aware that even though the 1979/80 Fiscal Year has just begun, the budget process for 1980/81 is already underway. Preliminary submittals of budget change proposals (BCP's) must be submitted to Department of Finance within approximately three weeks of the August 23 meeting.

The purpose of this meeting will be to discuss the budget change proposals and issues surrounding those proposals. This agenda includes a narrative for each of the agenda items so that members of the Committee can be aware of the key issue highlights.

AGENDA

A. Move to the New Department of Justice Facility

Members of the Commission are generally aware that POST is committed to move into a Department of Justice building, the first phase of which is already under construction. It is anticipated that the balance of the building will be completed for move in by POST during the 1980/81 Fiscal Year. The cost associated with this move must be reflected in our budget and constitute a budget change proposal. The basic costs associated are:

1. Moving costs. These costs will include the actual picking up

and delivery of furniture and supplies from the Bowling Drive location to the new location.

2. Telephones. First, we'll be required to pay telephone installation costs, and we anticipate completing the transition to the Centrex type of telephone system.
3. Partitions. Much of the work area is open-bay concept with the space to be divided up by movable partitions. POST will be required to pay the cost of partitions for the new office.
4. Lights. Though it seems unusual, we are advised that POST will be charged for certain kinds of lighting fixtures that will be built as part of the building. This is a function of providing sufficient lighting to each of the work stations once the work stations have been established. The lighting then would be movable and flexible to go along with the flexibility of the work-station concept.

We note that the costs of the move will be approximately \$58,000.

B. Budgeting of Half-Time Position in Administration Division

At its April 1979 meeting, the Commission approved POST to assume the total personnel function and not renew the contract with the Department of Justice. The Department of Finance's position is that addition of a half-time person here was to be offset by the deletion of a full-time position in the Department of Justice. Anticipating that DOJ and Finance will not have their position reconciliation worked out during this Fiscal Year, we feel it prudent simply to budget for the half-time slot as a BCP for F. Y. 1980/81.

C. Program Activity Analysis Report

This agenda item is before the Committee because it relates to the matter of increased Aid to Local Government Budget discussed at the July 1979 meeting. As members of the Committee will recall, staff was requested to analyze the various POST programs and present the Commission with information which will allow your honorable Commission to make policy decisions on how to allocate resources among the programs in a strategic fashion.

Meanwhile, directly to the point of increasing local aid in this year's budget, we have been able to ascertain that it is not practical or perhaps even possible to change the Basic Course distribution formula for this year using the unappropriated 1.7 million dollar reserve. It is much more realistic and desirable to complete the program and resource analysis, and then run the Commission's policy decisions through the

process as part of next year's budget preparation.

Staff will be prepared to discuss progress on the analysis to date with the members of the Committee at the Committee meeting, as well as to respond to questions and observations of members of the Committee.

D. Computer Funding: Lease vs. Purchase

The Commission has approved the acquisition of a computer which will allow staff to put many of the manually kept records onto an electronic data processing system. The original authorization anticipated purchasing hardware as well as providing funding for the key-punching in of existing data.

Staff has done further analysis of the question of acquiring EDP capability. At the meeting we will be prepared to show the Committee cost differentials between leasing equipment and purchasing equipment. Based on the Committee's recommendation on the question of lease vs. purchase, we will be prepared to make a budget change proposal to assure that POST has its computer on-line during the upcoming 1980/81 F.Y.

By way of note, funds have been approved for beginning the conversion process during the current fiscal year, in any event. Preliminarily, it appears as though the lease would give POST the advantage of lower cost over a three-year period and get us onto the computer sooner than if we went the purchase route. Again, we will be prepared to elaborate on this at the Committee meeting.

E. Standards Validation Unit

Members of the Committee are aware that federal funding for the Standards Validation Unit will expire during the course of this fiscal year (1979/80). Perhaps under another name there would appear to be a strong case for a POST activity which could assure the field the most effective kinds of guidelines and/or standards which otherwise would not be available or would be a "best guess" kind of approach.

If POST is to continue to be in the forefront of agencies of its kind throughout the United States, then having a statistical assurable capability on board would be greatly to our advantage. Staff will plan on exploring the potential capabilities of this kind of activity with the Committee at the meeting and will include certain specific examples to facilitate getting a handle on the issues that are before us.

F. Direct POST Training

The Commission has asked staff to be continually on the alert to suggest better ways of increasing the effectiveness of POST resources. Part of this certainly focuses on training delivery approaches. We are blessed in California with a multiplicity of training resources which have been successfully provided on contract basis; however, there may be certain kinds of training in which POST can act as its own prime contractor with a high degree of cost effectiveness. Interestingly, this issue comes to the fore at budget time, and in view of the Commission's review of the \$511,000 provided to the Department of Justice, as well as the issues that we'll be facing with regard to C.S.T.I. in San Luis Obispo, we would like to informally explore some thoughts on the kinds of program activities for which POST might consider itself as a prime contractor.

CONCLUSION

By way of information, we are advising the Committee that the general employee salary increase will be in the area of approximately \$305,000. We hope to have a more exact figure on this by the time of the meeting, but we are dependent on Finance to finish its work before we can take off our estimates. This money will automatically be taken from POST's reserve of 1.7 million by the Department of Finance.

We are pleased to advise that as a result of our discussion with Department of Finance officials, POST will not be required to conform to the additional 3% salary saving. Finance recognizes POST's Special Fund status, at least to that extent.

If there are any questions or comments that members of the Committee would like to suggest prior to or during the Committee meeting, please feel free to contact me at any time. We look forward to meeting with the Committee this Thursday.

Respectfully submitted,



NORMAN C. BOEHM
Executive Director

BUDGET CHANGE PROPOSAL
MOVE TO NEW BUILDING

COST:

Movable partitions - 857 linear ft. @44.52 ft.	\$ 38,152.00
Task lights - 80 @100	8,000.00
Telephones - relocation of system	3,648.00
Moving cost	<u>2,000.00</u>
TOTAL	<u>\$ 51,800.00</u>

JUSTIFICATION:

The Commission on Peace Officer Standards and Training is a part of the Department of Justice and has a close working relationship with Justice's Training Center. To improve this working relationship, the Commission on POST will be moved into the Department of Justice's, Division of Law Enforcement, new building being constructed on the site of the old state fair grounds. The scheduled occupancy date for the Commission on POST is September/October 1981.

The proposed new building is designed to be energy efficient and around the open space concept. The funds requested by this budget revision are to provide movable partitions, task lights for each work station, a new Centrex system and cost of moving POST's furniture to the new location.

Cost data included in this estimate was obtained from Marquis & Associates, architects for the new Department of Justice building, Pacific Telephone & Telegraph Co. and an estimate from a moving firm.

8/16/79

BUDGET CHANGE PROPOSAL
ONE-HALF TIME OFFICE ASSISTANT II (T)

COST:

Department of Justice Contract	\$ 9,271.00
Budget for proposed Office Asst. II (T) \$4,826.00 1/2 time 1,040 hr. @\$4.64	
Staff benefits:	
OASDI @6.13%	296.00
H&W 12 mo. @43.00	516.00
 Total Staff Benefits	 <u>812.00</u>
 Total Budget	 \$ <u>5,638.00</u>
 Net Savings	 \$ <u>3,633.00</u>

JUSTIFICATION:

Effective July 1, 1979 POST began doing all personnel pay and classification work and personnel transactions documents previously done by the Department of Justice.

This will result in a net savings of \$3,633.00 per year.

The increased workload is shown on the attached. To meet this workload, we have requested that a one-half time Office Assistant II (T) position be administratively established during fiscal year 1979-80. The position will be used to assist in the procurement property inventory control and miscellaneous functions. This BCP provides for permanent continuance beginning with fiscal year 1980-81

BUDGET CHANGE PROPOSAL
ONE-HALF TIME OFFICE ASSISTANT II (T)

	<u>Total Man Hr. Per Month Needed for Req. Tasks</u>	<u>Total Man Hr. Per Month Available</u>	<u>Add'l Man Hr. Per Month Needed</u>
PERSONNEL			
. Attendance - typing 634's, posting 672's, posting vacation and sick leave balances, and reconciling vacation and sick leave balances with attendance clerk.	35.0		35.0
. Documentation - preparing PAR's, EAR's, 607's, 613's, 625's, HB12's, reading SPB's "pinkies", and attending training classes.	40.0		40.0
. Payroll - reconciling time paid to time submitted for pay, CD66's, computing salary advances, preparing 603's, 674's.	6.0		6.0
PROCUREMENT			
. Purchasing - preparation of sub-purchase orders, estimates, stores orders, printing requisitions, duplicating orders, pick up of orders, reading and training	103.9	103.9	
PROPERTY INVENTORY AND CONTROL	16.0	16.0	
MISCELLANEOUS	49.1	49.1	
. Vacation	14.0	14.0	
. S/L	4.0	4.0	
. Vacation relief mailroom	6.6	6.6	
. S/L relief mailroom	4.0	4.0	
. Training relief mailroom clerk	3.5	3.5	
. Xerox key operator	10.0	10.0	
. Form orders for local government	5.0	5.0	
. Office machine maintenance	<u>2.0</u>	<u>2.0</u>	
TOTAL	250.0	169.0	

8/16/79

BUDGET BASELINE PROJECTIONS

	<u>1978-79</u>	<u>1979-80</u>	<u>1980-81</u>
Total officers trained	52,691	57,191	60,051
On-site course inspection	69	140	140
Courses modified	31	34	37
Courses audited	9	12	16
Total certified courses	504	529	555
Course Presentations:	2,093	2,318	2,434
Reimbursable	1,707	1,895	1,985
Nonreimbursable	386	428	449
Compliance inspections and follow-ups	235	210	210
Management surveys	16	16	16
Management assistance other than surveys	26	26	26
Certificates issued	10,545	15,000	12,500
Claims for reimbursement processed	8,181	10,025	10,526
Number of police personnel for whom reimbursement was claimed	20,751	25,000	26,250

8/23/79

REVENUES

<u>76-77</u>	<u>77-78</u>	<u>78-79</u>	<u>79-80</u>	<u>80 81</u>
\$12,107,315	\$13,368,340	\$14,219,728	\$13,500,000	\$13,500,000

REIMBURSEMENT

\$ 8,552,392	\$12,422,392	\$10,799.173 (\$1.2 defer) (to 79-80)	\$11,652,392	\$11,652,392
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ADMINISTRATIVE
COSTS

\$ 2,378,664	\$ 2,457,926	\$ 2,253,572	\$ 2,450,057 305,000* \$ 2,755,057*	\$ 2,700,000*
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SURPLUS AVAILABLE
JULY 1

\$ 3,476,711	\$ 1,693,238	\$ 2,786,553	\$ 1,879,104*	\$ 1,026,712*
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*Estimated

8/24/79

Memorandum

POST Budget Review Committee

Date : August 23, 1979

Norman C. Boehm, Executive Director

From : **Commission on Peace Officer Standards and Training**

Subject: Recommendation for Computer Leasing

Staff has been examining how best to acquire computer capabilities the most quickly and at the lowest possible cost, as was mentioned in the agenda report dated August 17, which was sent to members of the Committee. Several intensive meetings were held on this subject. This culminated in a recommendation for the Committee's consideration that POST seek to lease rather than purchase computer equipment.

Dave Wallis, who has been instrumental in the preparation of the computer project to date, was present at the meeting and had the assignment of preparing the recommendation report, which is attached.

Respectfully,



NORMAN C. BOEHM

Memorandum

: NORMAN C. BOEHM, Executive Director

Date : August 23, 1979

W. N. STAHR, Administrative Assistant
Executive OfficeDavid A. Wallis, Staff Analyst *Wallis*
Executive OfficeFrom : **Commission on Peace Officer Standards and Training**

Subject: DATA PROCESSING RECOMMENDATION

This is a proposed recommendation for the POST Budget Committee Meeting on August 23, 1979.

POST staff recommends that, for implementing the automated data processing system, an equipment lease alternative be pursued and approval obtained for this alternative from the State Department of Finance and the State Office of Procurement.

This recommendation stems from a POST Management Meeting on August 21, 1979, at which the alternatives--purchase of a turnkey system, lease equipment only and lease-purchase of equipment only--were discussed.

The lease alternative was selected based upon the following considerations:

- o It costs less to lease based upon the life expectancy of three years for the equipment.
- o The lease alternative provides the quickest system "start-up" time to respond to our immediate needs.
- o The leasing means is more adaptable for accommodating POST's future data needs which are not yet clearly defined.
- o Because computer technology changes rapidly, the lease alternative allows easier upgrading to more advanced equipment as it is developed.
- o POST will not need to be "stuck" with possible obsolete equipment three years from now.

Norman C. Boehm
August 23, 1979
Page 2

To proceed with the recommendation, the Executive Director will need, in addition to the existing authorization of \$52,000*, authority to contract for various necessary services and materials in an amount not to exceed \$48,000. This represents a total investment this year of less than \$100,000 under the lease arrangement. Subsequent years' costs will be approximately \$30,000 each for the period of the lease.

Attached is a cost comparison chart of the three alternatives available and a time line, charting the occurrence of the various tasks needed for implementation of the data processing leasing alternative.

* Already authorized:	\$32,000	Data conversion of peace officer and
		course files
	<u>20,000</u>	Invitation for bid
	\$52,000	

Not included is \$8,000 authorization to enter Basic Course Testing data.

DAW/WNS/kgH

Attachment

COST COMPARISON

For this chart, Turnkey, option #1, is the purchase of equipment and software from a private vendor. Lease and Purchase, options #2 and #3; are for leasing or lease-purchasing of equipment only; software will be developed in-house.

	Turnkey (Software and Equipment Purchase)	Lease (Equipment)	Lease- Purchase (Equipment)
System Development			
IFB Development	\$ 20,000	\$ 10,000*	\$ 10,000*
DP Analyst (Software)	--	31,500	31,500
Equipment Rent (9 mo. devel. period)	--	16,731	16,731
Data Entry	38,400	36,500	36,500
Purchase Price	130,000	--	92,103
TOT. SYST. DEVEL.	\$188,400	\$ 94,731	\$186,834
System Operation (after first 9 mos.)			
Year #1			
Equipment Rent	--	27,540	--
Equipment Maintenance	7,000	--	7,884
Software Maintenance	9,000	3,400	3,400
TOT. YR. #1	\$ 16,000	\$ 30,940	\$ 11,284
CUMULATIVE TOTAL	\$204,400	\$125,671	\$198,118
Year #2			
Equipment Rent	--	27,540	--
Equipment Maintenance	7,000	--	7,884
Software Maintenance	9,000	3,400	3,400
TOT. YR. #2	\$ 16,000	\$ 30,940	\$ 11,284
CUMULATIVE TOTAL	\$220,400	\$156,611	\$209,402
Year #3			
Equipment Rent	--	27,540	--
Equipment Maintenance	7,000	--	7,884
Software Maintenance	9,000	3,400	3,400
TOT. YR. #3	\$ 16,000	\$ 30,940	\$ 11,284
CUMULATIVE TOTAL	\$236,400	\$187,551	\$220,686

*This \$10,000 has already been committed and used for IFB development

Memorandum

To : BUDGET COMMITTEE

Date : August 23, 1979

Norman C. Boehm
Executive Director

From : **Commission on Peace Officer Standards and Training**

Subject: RESEARCH CAPABILITY

INTRODUCTION: SOCIETY AND PROFESSIONALISM

It almost goes without saying that contemporary U.S. society is increasingly complex, legalistic, and demanding of demonstrable results. This seems particularly true of governmental agencies, some of whom might be hard pressed to demonstrate effectiveness under the best of circumstances.

Fortunately, POST is in an advantageous stage to move into a solid position of being able to show how well it is serving the law enforcement community in the State. This is important from a professional as well as a societal perspective. This report is a discussion proposal of how this may be done.

AN INVESTMENT; NOT EXPENSE

POST's major role is to provide local law enforcement with funds and standards for selection and training. This is an investment of State funds, and any investment should have a return. POST's return is a continually improving local law enforcement service throughout the State.

In most instances POST does not know, but can only informally guess the effectiveness of the resources it invests in its Standards and Training in the State. We hypothesize, we guess and make informal judgments, but we often just plain don't know.

In the spirit of ensuring that the resources that POST makes available to local government is an effective an investment as possible, POST must consider the value of making permanent its research resources.

SAVING MONEY, TIME, AND TROUBLE

We need to have an on-going statistical and analytical resource on staff for determining training and program effectiveness. With this resource POST can be in a position of assisting local government to save large sums of money through effective recruitment methodology, proper training, enhancing success in courts, and avoiding tortious situations (which not only take time and money but sap moral and energy as well).

CERTITUDE: THE NEED TO KNOW

Such a resource would increase the confidence of the Commission about the investment in training of peace officer in California. We would have the advantage of increased reliability, relevance, and predictability in demonstrating what we do to public, governor, and legislator. We would have a degree of legal and statistical certitude that we do not now enjoy.

ONE EXAMPLE: SELECTION

One aspect alone serves as an example of the kinds of savings that would be possible by making an investment in a research capability at POST. That is in providing local units of government with tools and techniques that would enable them to maximize their resources in what is now an expensive process in placing competent officers on the job. POST-prepared selectional tools would include such things as self-screening, polygraph techniques, assessment center procedures, interview procedures, psychological fitness profiles, background investigation techniques, and appropriate affirmative action procedures to assure that people are not improperly selected by the process. These are impractical to develop and maintain many times over, but would be a great benefit if available to agencies wishing to use them.

THE PROPOSAL

At the present time, the Validation Unit consists of eight positions. We are confident that we can do a solid job with six, which would include three researchers, an assistant researcher, and two clerical support positions. The annual cost of this would be approximately \$185,000. This should, however, be viewed in terms of an investment with a return. The return is potentially three-fold.

One, as has been mentioned, is the measurability of effectiveness of training in the field. We don't have that capability now. We are vulnerable until we get it.

Two, the savings potential on the part of local government, by using scientifically verified methods and techniques at their volition.

Three, is the potential for reimbursement to the Peace Officer Training Fund for the developmental work done by POST that could be packaged and made available in other states. We don't have an estimate but it could come to a substantial figure.

EXPERIENCE AS AN EXAMPLE

The Committee should understand that we are not dealing with an untried concept. The Standards Validation Unit has already done some important work. For example:

- 1) Entry Level Law Enforcement Officers Job Analysis Study will allow both the local government and POST to make judgements and assessments regarding the most effective kinds of entry-level and subsequent training needs;

- 2) the Background Investigators Manual which has been a great boon to local government in the selection process;
- 3) the Medical Screening Manual, which is also widely used;
- 4) the design of appropriately worded job announcements and employment application forms have been completed. These are also in place and in use in the field;
- 5) the Medical History Statement which meets both the needs of local government and protects the interests of the applicant, have been developed and are in use.

Where would Law Enforcement be without these valuable tools? Who would have developed them?

In addition, under the LEAA grant, validated tests for reading, writing, and physical ability are being prepared and are nearing completion. These tests will soon be in use in the field and provide a valuable and equitable tool for the recruitment of officers.

RECOMMENDATION

The bottom line in bringing this to the Committee is that we respectfully recommend the Committee's endorsement and that staff be instructed to pursue this proposal further by developing justification in greater depth and pursue this as part of the budget process. In this event, we should also place the matter on the agenda of the October 1979 Commission meeting.

Respectfully submitted,



NORMAN C. BOEHM
Executive Director

NCB/ssc

Memorandum

To : NORMAN C. BOEHM
EXECUTIVE DIRECTOR

Date : August 14, 1979

George W. Williams, Chief
Center for Police Management
From : Commission on Peace Officer Standards and Training

Subject: Validation Unit Services

The following pages contain a description of a number of services to POST and to local law enforcement agencies which the Validation Unit could provide. A brief statement of each is listed below in outline form. The attachment contains a more detailed description.

A. Completed Validation Unit projects which require updating.

Services

- (1) Periodic revising of the Background Investigation Manual and the conducting of training seminars for POST staff and local agency personnel.
- (2) Periodic revising of the Medical Screening Manual and the conducting of training seminars for POST staff and local agency personnel.
- (3) Incorporating the remaining 200 agencies into the Statewide job analysis data base and re-administering the surveys where changes in job content warrant it.
- (4) Maintaining our extensive bibliography on law enforcement officer selection and making the information available to POST staff and local agencies.

B. Current Projects which could be maintained by the Validation Unit

Service

- (1) Updating, creating parallel forms of, and generally maintaining the reading, writing and physical performance tests which the Validation Unit develops in conjunction with the current project.

- (2) Updating information which the Validation Unit provides to POST staff and to local agencies regarding recruitment programs, job announcement forms and job application blanks.

C. Current POST programs to which the Validation Unit could provide input.

Service

- (1) Designing a data analysis and display system so that maximum positive benefit to POST and law enforcement academics can accrue from the basic academy proficiency test program which is mandated by Penal Code section 832.3(b).
- (2) Designing a rating procedure and data analysis program to evaluate the training courses which POST certifies (the previous program which is inoperative was called the Course Evaluation Index).
- (3) Establishing the job relatedness of criteria which are used to evaluate the qualifications of candidates for Intermediate, Advanced, Supervisory, Management, and Executive Certificates.

D. Advising, Training, and Consulting Services.

Services

- (1) Providing training for POST staff and local agency personnel regarding the major legal and administrative facets of personnel selection.
- (2) Providing legal assistance to POST staff and local agencies by answering inquiries, reviewing and briefing cases, and by maintaining a liaison with the State Attorney General's Office.
- (3) Providing on-site technical assistance to local agencies on a consulting basis and working with POST consultants to resolve fair employment, selection, and training problems encountered in the field.

E. Desirable future projects.

Service

- (1) Developing a self-screening program which would serve to reduce the number of unqualified persons who choose to continue the application process.
- (2) Researching the polygraph technique and making recommendations to the field concerning its use.
- (3) Establishing through research recommended vision and hearing standards for the entry-level law enforcement officer position.
- (4) Making "assessment center" procedures available to local agencies in order to improve their employee selection and promotion practices.
- (5) Developing a recommended interview procedure for the entry-level selection process.
- (6) Based upon the job analysis results, providing to local agencies a system for appraising the job performance of entry-level officers.
- (7) Researching the psychological screening methods in order to provide agencies with recommended procedures for local agencies to identify applicants who are psychologically unfit for work in law enforcement.
- (8) Analyzing the content of promotional positions and developing recommended techniques for identifying individuals with promotional potential.

This is not meant to be an exhaustive list of services which the Validation Unit has provided or could provide to POST staff and local agencies. The list was designed to exemplify the kinds of services which we feel are of value to law enforcement and which we feel we have the expertise to provide. Even with five years experience as a unit, it is difficult to anticipate the types of request for services which we might receive in the future. For example, John Kohls received a request this morning from Sergeant Al Benner of the San Francisco Police Department. San Francisco would like POST's assistance in setting up a selection process for field training officers. If the Validation Unit were available to

Norman C. Boehm
August 14, 1979

Page 4

respond positively to these kinds of requests in the future, we could provide necessary and valuable assistance to California Law Enforcement.

GWJ/JWK/lr
Attachment

✓cc: Gerald E. Townsend

A. Completed Validation Unit projects which require updating.

Background Investigation

Need: The continual assignment of new and untrained personnel to the background investigation function creates the need for periodic training around the State regarding proper background investigation techniques. Refresher and updating training for tenured background investigators is also needed.

Service: As it has done in the past, the Standards Validation Unit staff could conduct background investigation training seminars which are designed to keep tenured and newly assigned local personnel informed concerning important background investigation issues (e.g., new laws, recent court cases, new or changed guidelines, etc.).

Medical Screening

Need: Medical screening is a complex procedure because local conditions can have a substantial impact upon the type and severity of conditions which can lead to a medical disqualification. Although the procedures for establishing job related medical standards are explained in the already published Medical Screening Manual, our contacts with local agencies indicate that local agency personnel, personnel department staffs, and physicians need training regarding proper procedures for conducting job-related and legally defensible medical screening.

Service: Standards Validation Unit staff could conduct periodic seminars for local agency personnel. Periodic training is especially important in medical screening since the laws and guidelines relating to the hiring of medically handicapped persons are in a constant state of flux.

Job Analysis

Need: The data for the recently completed job analysis project was gathered in 1977 in 219 of the over 400 California agencies. The need now exists for incorporating the remaining agencies (approximately 200) into the job-analytic data base and for periodic updating of the data base when suspected changes occur in job content.

Service: Standards Validation Unit staff could initiate a program for providing job analysis assistance to agencies which did not participate in the original project; and could also develop a procedure for pro-

viding on a timely basis updated job analysis information for all California agencies.

Law Enforcement Personnel Selection Bibliography

Need: The fields of law enforcement personnel selection in particular and personnel selection in general, have been changing rapidly. These changes result partially from technological advances and partially from the ever-expanding number of fair employment laws and guidelines. In preparation for its previous project work, Standards Validation Unit staff have accumulated over 1,000 references regarding over 60 personnel selection topics. We have found that local agencies also have a need to be aware of this reference material, and therefore, we have made the bibliography available to them. Other bureaus within POST have also found the reference material valuable.

Service: Standards Validation Unit staff could continue to maintain and update the reference material in the bibliography to keep the information current with changes and advances in the field of personnel selection. This information could be provided both to the field and to POST staff.

We do not anticipate having the time or facilities to become a "clearinghouse" for such information. Nevertheless, we could fairly easily maintain the bibliography in the future in the same, somewhat informal, fashion as we have in the past.

B. Current POST Projects which could be maintained by the Validation Unit.

Reading, Writing, Physical Ability

Need: A survey of chiefs and sheriffs regarding the selecting of entry-level officers was conducted by the Standards Validation Unit in 1976. The topics most frequently mentioned were: finding better ways to evaluate candidates' reading, writing and physical abilities. Similar concerns are expressed by the academies in which more and more time is being spent "remediating" trainees who are deficient in these abilities. Testing procedures that measure these types of competency often have an adverse impact for minorities (i. e., for reading, writing) and for women (i. e., when testing for physical ability). The procedures must be shown to be job related to withstand charges of illegal discrimination. The processes by which one demonstrates job relatedness are elaborate and costly and, therefore, are beyond the means of most local agencies.

Service: The Standards Validation Unit is currently conducting extensive research that will result in job-related testing procedures that local agencies can use to screen out applicants with deficient reading, writing and physical abilities. Once these tests are developed, the Standards Validation Unit can update and maintain the tests. The Unit's personnel could also conduct further research to verify the ability of the selection devices to predict the satisfactory performance of entry level peace officers.

In the absence of these tests, local agencies would continue to accept persons with reading, writing and physical performance deficiencies in order to avoid charges of illegal discrimination.

Recruitment, Job Announcement, Job Application

Need: Many violations of the letter and spirit of fair employment laws and guidelines occur during the initial contacts with prospective employees (e. g., by virtue of inappropriate inquiries into irrelevant applicant characteristics). Also, the success of an agency's affirmative action efforts often depend on how well these three facets of the selection process are designed. As determined by a recent survey, many agencies need to improve their recruitment programs and the design of their job announcements and job application blanks.

Service: Project staff is currently developing an extensive manual to cover the topics of recruitment, job announcement and job application. The products will reflect the current state of affirmative action and fair employment laws and guidelines. Project staff could also continuously update these projects commensurate with changes in the law and the nature of the job.

C. Current POST Programs to which project staff could provide input.

Proficiency Testing

Need: Penal Code section 832.3(b) requires POST, for the purpose of programic evaluation only, to test all graduates of basic academies, effective July 1, 1979. It is anticipated by many that this law is the first step toward eventually requiring that all trainees pass a proficiency test as a prerequisite to receiving a basic certificate (licensing). If this should occur, the testing procedures used by POST will undoubtedly be the subject of fair employment litigation. This will necessitate that POST: (1) be able to document the job relatedness of the testing procedures that have been used, and (2) continually construct new parallel test forms to insure the integrity

of the examination process. Regardless of whether licensing legislation is passed, the mandate provided by Penal Code section 832.3(b) affords the unique opportunity for POST to develop a computer-based system for using the test scores to assess the relative strengths and weaknesses of academy course presentations. Once again, continuous analysis and construction of new test forms will be necessary to make this assessment procedure meaningful.

Service: Standards Validation Unit staff have extensive education and experience in test item writing, item analysis and test construction. In addition, they have considerable experience in conducting computer-based research. With this background, they are ideally suited to perform the test analysis and maintenance functions that are necessitated by Penal Code section 832.3(b). In addition, because of their extensive backgrounds in validation research and their familiarity with the data base resulting from the Statewide Job Analysis, they are uniquely qualified to evaluate and document the job relatedness of the testing procedures (and the job relatedness of the basic course content).

Course Evaluation Index (CEI)

Need: A formal program (which has been inoperative for approximately one year) has been used in the past to evaluate the quality of certified course presentations. There is a need to re-establish this program.

Service: Project staff could develop the appropriate forms, data analysis procedures, and display formats for the CEI program.

Certificate Programs: Job Relatedness

Need: Five classes of POST certificates are awarded in the basis of a combination of education and training (Intermediate, Advanced, Supervisory, Management, Executive). The job relatedness of both the required education and the required training for each of these certificates is unknown. Therefore, the job relatedness of certificates awarded on the basis of attending these presentations is also unknown. In addition, because many agencies use these certificates for purposes of awarding pay increases and qualifying individuals for promotions, etc., it is also important from a legal standpoint that the job relatedness of these presentations be established.

Service: With their backgrounds in research design, data collection and interpretation, etc., the Standards Validation Unit staff are well qualified to design and conduct the kind of investigation needed to evaluate the job relatedness of the training and education requirements for the different POST certificates. Such investigation will insure that: (1) all requirements are job related and, (2) time and money are not spent on irrelevant training.

D. Advising, Training, and Consulting Services.

Training

Need: The fields of law enforcement personnel selection and training are basically what POST is concerned with. These fields are sufficiently complex that POST field consultants and most local agency personnel find it impossible to keep abreast of the major legal and administrative developments in these two related fields. There is a need for training programs designed to keep law enforcement personnel better informed and therefore make them more effective in their efforts to improve the quality of law enforcement candidate selection and training.

Service: Standards Validation Unit staff could develop and present a wide range of training programs dealing with the major legal and administrative facets of personnel selection training.

Legal Assistance to Local Agencies

Need: The body of fair employment law is extensive, complex and ever changing. It protects individuals on the basis of their race, sex, religion, national origin, age, physical condition and sexual preference. The protections apply to all aspects of the employment process including selection, promotion, training, pay, etc. Law enforcement positions continue to be the subject of extensive fair employment litigation.

Keeping informed of the rapid developments in statute and case law is a time consuming process. Few county counsels or city attorneys are able to devote the time that is required.

Service: The Standards Validation Unit receives inquiries from the field almost daily concerning some aspect of fair employment law. Many times the inquiry comes from a department that is seeking guidance as to how to avoid a potential litigation. Other times the inquiry comes from the attorney that is representing a department in an impending law suit. The attorney often has little knowledge

or experience in the fair employment field. By constantly reviewing and briefing these new cases, as well as maintaining a close liaison with the fair employment branch of the State Attorney General's Office, the Standards Validation Unit is able to respond to these inquiries in an informed and timely manner. In addition to providing assistance over the telephone, the Unit frequently provides local agencies with more formal legal assistance in the form of memoranda that have already been written by the Unit on particular related legal issues.

Consulting - Technical Assistance

Need: Many of the questions directed to the Standards Validation Unit from the field concern issues which are specific to the local agency asking for assistance. In these instances, individualized solutions to problems have been devised. During the course of the LEAA grant, time has not permitted our providing assistance to more than a few agencies. This is unfortunate because many of the difficult problems encountered by local agencies could be resolved quickly and easily if expert input were made available to local personnel. POST's area consultants also have need to consult with the Standards Validation Unit staff regarding problems encountered while contacting their service areas.

Service: Standards Validation Unit staff could be made available to provide technical assistance to POST staff and local agencies on a consulting basis.

E. Desirable Future Projects.

Self-Screening Device

Need: Because of fears of possible fair employment litigation, many departmentst have adopted selection procedures that screen out few applicants. The results are: (1) extensive "eligibility lists"; and (2) considerable costs to the departments (for example, because few persons are screened out by a written examination, most applicants must be interviewed). Departments desperately need a procedure for use, without fear of litigation, that will allow them to screen out significant numbers of candidates.

Service: Standards Validation Unit staff could develop a self-screening device that would result in significant numbers of candidates screening themselves out of the selection process. The procedure would realistically convey to applicants the less attractive

as well as the more appealing conditions and duties that an entry-level officer must face and thereby reduce many commonly held "myths" about the glamor of police work. Adoption of such a procedure would also reduce the dissatisfaction that officers often experience upon learning that the patrol job is quite different from what they had expected.

Polygraph

Need: One of the most frequent inquiries from local agencies to Standards Validation Unit staff concerns the use of the polygraph as an aid in background and medical screening procedures. Questions typically concern the accuracy of the instrumentation, the validity of the procedure, the appropriateness of the questions which are asked and the proper training for polygraph examiners. Although we feel that the polygraph can be a valuable tool in the selection process, the procedure needs to be thoroughly studied so that it can be applied properly.

Service: Project staff could conduct a study into the general issue of polygraph examining. The product would be a manual which local agencies could use to determine whether or not to use to set up their own polygraph examining procedures.

Vision and Hearing

Need: Traditionally law enforcement agencies have had rigid standards for visual and auditory acuity. Recently, however, local law enforcement agencies have been dropping such standards because the lack of justification for them. Most local agencies do not have the expertise or resources to do independent research into vision and hearing. In addition, POST has no recommendation concerning desirable vision and hearing standards.

Service: Project staff could design and conduct studies into the visual and auditory demands of the law enforcement officer's job. Subsequently, recommended standards could be developed.

Assessment Center Procedures

Need: The "assessment center" or multiple assessment approach to selection and promotion of personnel was first used in private industry by ATT in the mid 1950s. Since then, it has been adopted by many other companies as the preferred way of assessing the

qualifications of applicants and employees. Relatively little application of this technique has been made in the public sector.

Service: Law enforcement agencies could be given the kind of technical assistance by project staff which would allow the agencies to reap the benefits of this innovative and effective measurement technique. Project staff has had experience in the design and conduct of assessment centers in both the private and public sectors.

Personnel Selection Interview

Need: As a result of fair employment challenges, there has been a decline in the use by local law enforcement agencies of formal testing procedures. Therefore, the selection interview has begun to bear more and more of the selection-decision burden. Unfortunately the interview is often the most salary intensive, subjective, unreliable and invalid technique used in the selection process. Local agencies should greatly improve the manner in which the selection interview is being conducted.

Service: Standards Validation Unit staff could develop a selection interviewing-procedure manual and accompanying training program which would serve to greatly improve the quality of personnel selection interviewing conducted by local agencies in California.

Performance Appraisal

Need: The assessment of job performance is necessary but difficult. Agencies, in order to improve and maintain acceptable performance, need to have at their disposal a performance appraisal system that works. Nevertheless, project staff knows of no existing system in law enforcement that is working satisfactorily.

Service: Project staff could, based upon the Job Analysis results, design a performance appraisal system, for use by local law enforcement agencies. Project staff has had extensive experience in the area of performance appraisal. Staff members have designed and implemented major performance appraisal systems and have lectured on the subject at the post-graduate level. Two staff members have published a report on the subject as it applies specifically to entry level law enforcement officers.

Psychological Screening

Need: The patrol job is very stressful as evidenced by the high incidence of alcoholism, marital difficulties, hypertension, and heart related disabilities, etc., exhibited by law enforcement officers. Further evidence is found in the rapid growth of stress management programs being offered for law enforcement officers. Because of the high stress (and high visibility) nature of the patrol officer's job, it is absolutely necessary that individuals with a propensity toward dysfunctional behavior (both to themselves and others) in stressful situations be identified in the selection process. Little research has been conducted to assess the validity of widely used psychological test batteries for selecting law enforcement officers. In addition, the scales which comprise the test batteries have been normed against a predominantly white male population. Thus, some of the scales may have adverse affect against females or minorities.

Service: Substantial research needs to be conducted to assess and document the utility of these devices as possible selection devices. Validation Unit staff could conduct such research in order to develop a job-related psychological test battery that effectively screens out potential "problem" individuals.

Promotional Procedures

Need: Although up to now, our efforts have been directly concerned with the entry-level selection decision, the promotion of personnel in an effective and job-related manner is as difficult or even more difficult a decision to make by local agencies. We constantly hear of incidents where promotional decisions around the State have been postponed or rescinded because of challenges to the promotional process.

Service: Project staff could conduct a job analysis of promotional positions and design promotional techniques for local agencies.

AGENDA ITEM SUMMARY SHEET

Agenda Item Title		Meeting Date
DOJ Contract Modification Request		October 25-26, 1979
Division	Division Director Approval	Researched By
Operations	<i>Bradley W. Koch</i>	Bobby W. Richardson
Executive Director Approval	Date of Approval	Date of Report
<i>Norman C. Beelman</i>	<i>October 11, 1979</i>	October 4, 1979
Purpose: Decision Requested <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Status Report <input type="checkbox"/>		Financial Impact Yes (See Analysis per details) <input type="checkbox"/> No <input type="checkbox"/>

In the space provided below, briefly describe the ISSUES, BACKGROUND, ANALYSIS and RECOMMENDATIONS. Use separate labeled paragraphs and include page numbers where the expanded information can be located in the report. (e. g., ISSUE Page _____).

Issue:

The State Department of Justice (DOJ) is requesting that the 1979-80 DOJ/POST contract be amended to include an additional \$75,857 in course presentations. This request is made by DOJ to offset the effects of the Legislature adopting budget control language that requires DOJ to turn over all funds collected from out-of-state trainees to POST.

Analysis:

DOJ intends to use the additional funds, if approved by the Commission, to offset a loss of out-of-state training funds which by budget control language was turned over to the Commission on POST.

When this issue was first raised by DOJ, the courses offered at the time were not considered by staff to be acceptable considering the Commission's training priorities. The presentations they now propose offering are more in line with what staff believes is needed. (See list in the attached memorandum.)

The added cost of the contract to POST would be offset by payments to the POTF by DOJ which equal or exceed the amount of this contract request. However, staff recommends that the request be denied on the basis that the funds for this contract have not been included in this year's budget and that the request was submitted too late for staff to adjust other training priorities in order to increase contract amount. Specifically, staff's problem with the request is that even though we would receive the amount requested back, it would go into the POTF but would not be credited to the amount we are authorized to spend in Aid to Cities and Counties for this fiscal year. Additionally, we would have an additional (larger) expense in travel and per diem which would not be returned to the POTF.

If the Commission determines that the contract should be increased, reduction of other training programs currently budgeted would have to take place in the amount of the contract and corresponding reimbursement, approximately \$90,000 to \$100,000.

Because we had to seek a deficiency appropriation this past fiscal year, staff believes it would be inappropriate at this late date to increase POST's contract by the amount requested.

Recommendation:

Staff recommends denial of the contract modification.

Utilize reverse side if needed

Brad Koch
Executive Director
Commission on Peace Officer
Standards & Training

June 29, 1979

DOJ/POST Law Enforcement Training Program

The Legislature has adopted budget control language that requires the Department of Justice (DOJ) to turn over all funds collected from out-of-state students attending DOJ training courses to the Peace Officers Training Fund (POTF). It was the Department's intention to utilize these funds to offset the growing deficit in the program which we have estimated to be over \$100,000 for Fiscal Year 1979-80. The primary reason for this deficit is increases in salaries and fringe benefits. This deficit is in addition to the approximately \$500,000 the DOJ is currently allocating to the program.

From our June 15 discussion, it appears that POST is unable to return these funds to the Department without amending the contract to allow the Department to put on more courses. In order to recover a portion of this deficit, we are requesting that the DOJ/POST contract be increased to \$586,985 from \$511,028. The majority of the \$75,857 increase in the contract would be funded by the approximately \$70,000 + collected during Fiscal Year 1978-79 from out-of-state students that will be returned to POTF. A like amount should be collected during the Fiscal Year 1979-80.

Attachment I shows the 32 additional courses we are proposing of which 31 are on-site. Attachment II breaks down the costs of these additional courses and Attachment III shows the total program if the contract is amended.

Additionally, we are requesting POST to undertake a study to determine if the current 15% indirect allowed is appropriate. It has been our experience with the majority (over 80%) of our courses on-site that this rate is inadequate.

Should you need any additional information please call me at 445-8178.

KIP SKIDMORE, Chief
General Administration Branch

KS:cm

Attachments

MODIFICATION - PROPOSED 1979/30 TRAINING PROGRAM

ADDITIONAL COURSES PLANNED

<u>Course/Hours</u>	<u>No. of Added Presentations</u>		<u>No. of Added Classroom Hours</u>	
	<u>On-Site</u>	<u>DOJ TC</u>		
Data Collector	76	2	0	152
Informant	36	2	0	72
Prison Gang	36	3	0	108
Intro. Crime Analysis	24	1	0	24
VIA	8	6	0	48
Link Analysis	8	6	0	48
Narcotic Investigation	80	0	1	80
Beat Patrol Narcotic	20	3	0	60
Gambling Investigation	40	3	0	120
Pornography Invest.	40	5	0	200

Memorandum

To : Norman Boehm
Executive Director
Commission on Peace Officer
Standards & Training

Date: August 16, 1979

From : General Administration Branch

Subject: Amendment to 1979/80 DOJ/POST Contract

In my memo of June 29, 1979 (attached), the Department of Justice (DOJ) requested that the 1979/80 DOJ/POST contract be amended to include approximately \$75,857 in additional courses. The costs of these courses were proposed to be financed by funds generated by the attendance of out-of-state students in POST courses. By legislative mandate, these funds are to be turned over to the Peace Officers Training Fund (POTF).

In discussions with your staff, it appears that the 32 additional courses proposed may not be the most desirable. In working with your staff, we have modified our original amendment request to better fit the needs of local law enforcement. Attachments I & III show our revised proposal for an additional 16 course presentations costing approximately \$75,828. Attachment II breaks down the costs of the total 1979/80 DOJ/POST program.

As I mentioned, this item has been assigned to the Commission Budget Committee for their recommendation to the full Commission. Should you need any additional information, please call me at 445-8173.



KIP SKIDMORE, Chief
General Administration Branch

KS:cm

Attachments

PROGRAM CLARIFICATION

Narcotic Investigation and Beat Patrol Narcotic Courses:

Both courses have a large backlog of students that cannot be accommodated unless the additional courses are provided.

General/Burglary Investigation:

Course will involve general police investigation with an emphasis on burglary. This course is not now certified and fills a need identified by Peace Officer Standards and Training (POST) staff.

Sinsemilla Eradication:

Course is a result of information derived from the "1979 Sinsemilla Task Force." A federal grant has been obtained to pay for the use of airplanes and related equipment. The training will enable the program to proceed.

Arson for Profit:

This major crime area is becoming an ever increasing problem. The course will provide training for police investigators who will be able to fully investigate arson for profit from inception to prosecution.

Police Records Management:

Developed as a result of a POST problem solving seminar comprised of police records managers, Department of Justice records personnel, and POST staff.

ATTACHMENT I

MODIFICATION - PROPOSED 1979/80 TRAINING PROGRAM

ADDITIONAL COURSES PLANNED

<u>Course/Hours</u>		<u>No. of Added Presentations</u>		<u>No. of Added Classroom Hours</u>
		<u>On-Site</u>	<u>DOJ TC</u>	
Narcotic Investigation	✓	0	1	80
Beat Patrol Narcotic	✓	3	0	60
Pornography Investigation		5	0	160
General/Burglary Investigation	✓	2	0	80
Sinsemilla Eradication		2	0	160
Arson For Profit	✓	1	0	80
Police Records Management	✓	2	0	160

ATTACHMENT II

BUDGET BREAKDOWN IN COMPLIANCE WITH
POST REQUIREMENTS

Course	Instruction	Coordination		Clerical	Materials	Travel	15%		Total
		Pre-Site	On-Site				Indirect		
Data Collector	\$ 2,600	\$ 228	\$ 684	\$ 380	\$ 210	\$1,513	\$ 842	\$ 6,455	
Data Analyst	2,000	228	684	380	210	594	614	4,710	
Fencing Invest.	1,250	120	360	200	150	920	450	3,450	
Informant	1,400	108	324	180	180	678	430	3,300	
Gambling	1,250	120	360	200	160	860	443	3,393	
Intell. Commander	1,200	120	360	200	100	500	372	2,852	
Economic Crime	2,600	210	630	380	210	678	706	5,414	
Equipment	1,000	120	36	200	280	214	278	2,128	
Chief Executive	750	72	0	120	20	924	283	2,169	
Terrorist	1,200	120	360	200	400	447	409	3,136	
Prison Gangs	1,400	108	324	180	130	783	439	3,364	
Intro. Crime Analysis	800	48	0	80	150	752	275	2,105	
VIA	200	24	0	40	100	276	96	736	
Link Analysis	200	24	0	40	80	296	96	736	
OCAP	500	60	180	100	50	310	180	1,380	
Heroin Influence	740	60	144	100	90	580	257	1,971	
Narcotic Invest.	7,500	240	0	400	600	0	1,311	10,051	
Beat Patrol Narcotic	1,000	60	0	100	400	400	294	2,254	
Air/Marine Smuggling	800	96	288	160	450	800	389	2,983	
Modular	1,600	96	288	160	480	640	490	3,754	
Homicide Invest.	1,375	132	360	220	250	1,200	531	4,068	
Narcotic Commander	1,000	120	360	200	250	500	365	2,795	
Pornography Invest.	600	100	180	200	100	650	274	2,104	
Genl./Burglary Invest.	1,375	132	360	220	250	1,200	531	4,068	
Sinsemilla Eradication	2,000	240	720	400	186	4,152	1,225	8,923	
Arson For Profit	2,000	240	720	400	150	1,757	790	6,057	
Police Records Mgmt.	1,500	240	720	400	425	2,955	936	7,176	

ATTACHMENT III

DEPARTMENT OF JUSTICE TRAINING CENTER

ADDITIONAL - PROPOSED TRAINING PROGRAMS 1979/80

Course/Hours	Number of Presentations	On-Site	DOJ-TC	Estab-lished Class Size	Total Classroom Hours	Maximum Attendees All Classes	Average Cost Per Course	Estimated POST Reimbursement
Narcotic Investigation	80	0	1	20	80	20	\$10,051	\$10,051
Beat Patrol Narcotic	20	3	0	20	60	20	2,254	6,762
Genl./Burglary Invest.	40	2	0	20	80	40	4,068	8,136
Sinsemilla Eradication	80	2	0	20*	160	40	8,923	17,846
Pornography Invest.	32	5	0	20*	160	100	2,104	12,624
Arson For Profit	80	1	0	20*	80	20	6,057	6,057
Police Records Mgmt.	80	2	0	20*	160	40	7,176	14,352
								\$75,828

*pending



SHERIFF-CORONER DEPARTMENT
COUNTY OF ORANGE
CALIFORNIA

BRAD GATES
SHERIFF-CORONER

August 7, 1979

COMMISSION ON POST
Aug 13 9 55 AM '79

Chief Kay Holloway
Chairman
Commission on Peace Standards and Training
Coalinga Police Department
Sixth and Elm Streets
Coalinga, CA 93210

Dear Kay:

As you are aware, I have actively supported the position of developing a Bomb Disposal Training School in the State of California. POST, as a Commission, has been in total support of this concept and it appears from Colonel Giuffrida's letter that we are not going to get any assistance from LEAA.

Due to the fact that it is extremely difficult to arrange for anyone to attend the Redstone Training Center, and on top of that, extremely expensive, I feel it is paramount that we establish a training center in the State of California as soon as possible.

I also strongly feel that the California Specialized Training Institute is the only contractor that I would consider capable of providing this training effectively.

I feel this is a number one priority throughout the State of California and would hope that you would direct Executive Director Boehm in conjunction with Colonel Giuffrida to prepare a proposal for our October meeting.

Further, I feel we should take immediate action in October to establish this training center as soon as possible. Please feel free to contact me if there is any additional information or effort on my part that would help implement this program.

Sincerely,

BRAD GATES
Sheriff-Coroner

BG:stt
Enclosure

cc: Executive Director Norman Boehm ✓
POST Commissioners
Colonel L. O. Giuffrida

CALIFORNIA SPECIALIZED TRAINING INSTITUTE

CAMP SAN LUIS OBISPO, BLDG. 904

SAN LUIS OBISPO, CA 93406

(805) 544-7101



30 July 1979

Sheriff Brad Gates
Orange County Sheriff's Dept.
550 N. Flower
P.O. Box 449
Santa Ana, CA 92702

Dear Brad;

A quick note to review some of the points we discussed about the Bomb Technicians Program. As I told you in Inglewood, we had requested from the LEAA about \$430,000 for set-up costs which include construction of a variety of "laboratories" which actually are miniature movie sets used by the students in their search for bombs. That figure also includes hiring 3 additional bomb technicians and 2 administrative personnel. After many, many hours of preparation, consideration and rehashing, etc., I hand-carried the document back to LEAA to Homer Broome (who had received the telegram of unanimous support from POST) and was led to believe it would be approved. We were very disappointed when it was rejected.

As you recall, our Hazard Devices Program includes a 3-week basic certification course and also a 1-week refresher course for technicians who are already certificated. I will not bother you with all of the data validating the need for these programs in California: I know you are very much aware of the need since it is you who has been the primary motivator these past years. Suffice to say LEAA no longer will pay travel and per diem costs for students to attend the course in Redstone Arsenal, Alabama. In view of Proposition 13 and other budgetary restrictions, it is now extremely difficult, if not impossible, for most California law enforcement agencies to send someone to be trained. More than 90% of the certified bomb technicians in California are clustered in the Los Angeles-San Francisco area, leaving most of the State without such support. To complicate matters further, military EOD teams are even less available than they have been in past.

Sheriff Brad Gates

-2-

30 July 1979

With some cooperative effort, we can still establish this essential program. (By training 2 of the CSTI resident staff as bomb technicians, we need hire only one additional technician and one clerk.) We can do some of the facilities modifications ourselves and we can cut a couple of sessions of courses we already have scheduled. We then could do the Bomb Program by about February, 1980, provided we can get our hands on about \$165-175,000 for first-year courses. Subsequent year costs would, of course, be appreciably less because the figure of \$175,000 includes the safety bunker, purchase of equipment such as x-ray machines, etc., which would not be necessary after the initial year. Because we are working with explosives, the bomb courses are limited to 20 students per class for obvious safety reasons. We would have no difficulty filling all the classes we could handle for the next 3 years.

We cannot do it without your active support. I would be pleased to discuss it further with you and with any of the rest of the Commissioners at a mutual convenient time. I look forward to hearing from you soon.

Sincerely yours,



L. O. GIUFFRIDA
Director

LOG: jm

AGENDA ITEM SUMMARY SHEET

Agenda Item Title ADVANCED OFFICER COURSE REIMBURSEMENT POLICY		Meeting Date October 25-26, 1979
Division Operations	Division Director Approval <i>Shadley W. Koch</i>	Researched By Staff
Executive Director Approval <i>Mexican R. Becken</i>	Date of Approval <i>October 11, 1979</i>	Date of Report October 11, 1979
Purpose: Decision Requested <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Status Report <input type="checkbox"/> Financial Impact <input checked="" type="checkbox"/> Yes (See Analysis per details) <input type="checkbox"/> No <input type="checkbox"/>		
In the space provided below, briefly describe the ISSUES, BACKGROUND, ANALYSIS and RECOMMENDATIONS. Use separate labeled paragraphs and include page numbers where the expanded information can be located in the report. (e.g., ISSUE Page _____).		

Issue

The amount of allowable salary reimbursed for Advanced Officer Training (AOT) is currently unrestricted. Staff is requesting amendment of Commission Procedures to provide for appropriate fiscal control for the Advanced Officer course.

Background

Since the inception of reimbursement for the Advanced Officer (AO) Course in 1968, there has been limited control over the amount of monies expended for this training. The Commission at its regular meeting of April 19, 1979 set a two million dollar reimbursement cap on AOT for F.Y. 79-80. Recent negotiations for a new Memorandum of Understanding indicates that, potentially, the Los Angeles Sheriff's Department could receive approximately \$950,000 from POTF this fiscal year for AOT.

Because of this fact, and information that several agencies are increasing the frequency of salary reimbursable training, it appears necessary that Course Procedures be amended to control reimbursement for AOT.

Analysis

The Commission in May 1969 (retroactive to July 1, 1968) established reimbursement for AOT at a maximum of 40 hours per year. Effective July 1, 1971, the Commission revised the procedures to provide very restrictive guidelines for reimbursement for AOT as follows:

Advanced Officer Courses: Minimum hours required for certification = 20; maximum hours for reimbursement in each fiscal year = 40 hours per officer for officers below the first level of supervision only, but not to exceed 25% of the sworn personnel in agencies employing four or more sworn personnel on July 1 of the preceding fiscal year. In cases where the course taken averages less than 40 hours per officer, a proportionate increase in the percentage of personnel may be added to the eligible total, e.g., 20 hours per officer for 50% of total personnel. Reimbursed in 2-hour increments in excess of 20.

This policy remained in effect until June 1972 when the Commission removed the restriction on the number of officers a department could train annually for AO reimbursement. The failure to restrict reimbursement for officers below the first-level supervisor opened the door to reimbursement for all ranks attending an AO course. This policy is still in effect and utilized by most departments.

Utilize reverse side if needed

July 1974, the Commission adopted PAM in its present form. The limit on reimbursement for 40 hours once per year was changed to 40 hours maximum reimbursement for each course, without further restrictions. Staff interpretation of the Regulations permitted reimbursement on an unlimited basis without regard to rank or total hours of reimbursement claimed.

There was a 75% increase in AO reimbursement in F.Y. 75-76. This was due largely to the increased use of single subject matter being presented under the AO format and the make-up of AOT deficiencies. The first full four-year cycle for AOT ended June 1975. Compliance inspections conducted during the last half of 1975 prompted many agencies that had neglected to train personnel to do so immediately.

The upward trend continued until fiscal year 77-78 when Proposition 13 took its toll. Job Specific training courses were increased and departments were capitalizing on salary reimbursement training rather than technical courses that did not provide salary reimbursement.

At its April 1979 meeting, the Commission received a recommendation to fund the Advanced Officer (AO) course program on the basis of one Plan II reimbursement every four years; that is each agency would be reimbursed for an officer attending AO course once every four years. The alternative suggestion discussed was that more frequent attendance of the AO course would be encouraged but could be reimbursed by POST at the Plan IV rate (travel and per diem) only. The reason for this recommendation was the potential for uncontrolled AO expenditures. At that meeting, Commission's action was to set a \$2 million dollar cap on AO reimbursements.

POST is experiencing an accelerated trend in requests for AO reimbursements, well above the normal rate of AO training. The Commission's \$2 million cap on AO training will most likely be reached before the end of this fiscal year. In view of this apparent inevitability, the response possibilities for POST would include:

- (1) When the \$2 million cap is reached, POST would simply not honor a request for reimbursement above that limit. This would leave a number of departments unreimbursed or unable to complete their regular programs of AO training and raises questions of equity in a first come; first serve environment.
- (2) Ignore the \$2 million cap and pay for AO training at the expense of other anticipated training this year. Such a course has the dangers of another budget overrun on the one hand, or displacing established training needs and programs on the other.

Neither of these alternatives seem to bode well for POST or for the agencies we serve.

In view of the dilemma, staff respectively recommends that your honorable Commission again consider a policy of controlling AO reimbursements to read as follows:

Effective immediately, an individual may attend only one Advanced Officer course for which salary reimbursement will be made, once every four years. When additional Advanced Officer courses are attended during the same four year

period, salary reimbursement is not authorized, but subsistence and travel expense may be claimed. In no event will any more than 25% of the personnel of any law enforcement agency be eligible for salary reimbursement for Advanced Officer training during a fiscal year (July 1 through June 30). Salary reimbursement will not be paid to supervisors and above who attend Advanced Officer courses.

In essence this policy would pay salary reimbursement for 25% of a department attending AO courses during a year. Any AO attendance above 25% of a department is reimbursed at the Plan IV travel and per diem only rate.

Staff estimates that if 100% of the officers in California were to attend an AO course each year on recommended 25%-75% formula, the cost to POST would be \$2,594,515. By comparison, this cost would be \$7,088,284 if all officers attended each year under the present salary reimbursement formula. The cost to POST for training 25% of the officers each year under the salary reimbursement Plan amounts to approximately \$1,772,071.

By going to the 25% salary/75% travel and per diem formula, the total cost of AO training will likely approximate the \$2 million cap. This recommended policy is consistent with POST's desire that officers have regular training beyond the Basic Course and still retains an equitable control on the amount of POST funds being used for this particular type of training. It is also consistent with the Commission's policy that the mandated courses contain salary reimbursement in that the law prescribes that the regulations provide that an officer will attend an AO course not less than once every four years.

If the Commission concurs, the appropriate action would be a motion to amend the POST Administrative Manual, Section E, to reflect the language of the policy stated above.

The Commission should be aware that with the adoption of the recommended policy, there may be a tendency among departments to shift the training emphasis away from the AO course to the job specific and technical courses where salary reimbursement is now authorized in all instances. In view of that potential problem, staff is going to be studying possible recommendations for further controls on this type of training as well, and anticipate bringing a report back to the Commission at its January meeting.

AGENDA ITEM SUMMARY SHEET

Agenda Item Title BASIC COURSE EQUIVALENCY PROCEDURE		Meeting Date October 25-26, 1979
Division Operations	Division Director Approval <i>Tracy W. Koch</i>	Researched By B. W. Richardson
Executive Director Approval <i>Norman C. Behm</i>	Date of Approval October 10, 1979	Date of Report September 1, 1979
Purpose: Decision Requested <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Status Report <input type="checkbox"/> Financial Impact <input type="checkbox"/> Yes (See Analysis per details) <input type="checkbox"/> No <input type="checkbox"/>		
In the space provided below, briefly describe the ISSUES, BACKGROUND, ANALYSIS and RECOMMENDATIONS. Use separate labeled paragraphs and include page numbers where the expanded information can be located in the report. (e. g., ISSUE Page _____).		

Background

At the July 1979 Commission meeting, staff presented an agenda item requesting elimination of the applicability of 1008 of POST Regulations, as it applies to the Basic Course, or adoption of additional policy guidelines for inclusion in the POST Administration Manual (PAM) that would assist staff in administering the Basic Course Equivalency (BCE) process.

The Commission directed staff to submit BCE administration guidelines at the October Commission meeting.

Analysis

The major issues to be addressed by the Commission insofar as this agenda item is concerned include the issue of eligibility to take the Basic Course Equivalency Examination (BCEE), suggested policy guidelines for administration of the BCE process, staff recommendations for administering the Basic Course Equivalency Examination (BCEE) and reciprocity. Each of these issues is discussed individually in the attached detailed analysis, (see Page 3). The recommended guidelines are:

1. Individuals must be currently employed as a full-time law enforcement officer (as defined by Regulation 1001) by the requesting agency in order to be evaluated and tested by POST for Basic Course Equivalency (BCE).
2. Individuals who have completed a POST-certified Basic Course under the former D-1 (200 hour) requirement are, except as otherwise determined by the Commission, deemed to have met the basic training requirements of either new D-1 or D-12, depending upon the individual's peace officer category, and no evaluation or testing is required.
3. All other individuals for whom a basic training equivalency waiver is requested must meet either new D-1 or D-12 standard, depending on the type of employment the individual is applying for.
4. Individuals who meet the current D-1 training standard also meet the training requirements of D-12.
5. POST staff will evaluate training and education submitted under the provisions of 1008 which may be equivalent to the training required for the Basic Course, including POST certified reserve courses.

Utilize reverse side if needed

6. Equivalency evaluation requests must be accompanied by a comparison of completed training made by the requesting department, using POST Form 2-260, and must specify on the form the basis upon which the equivalency is believed to exist by the department when the training is compared to POST Commission Procedure D-1.
7. When POST determines that the material submitted in connection with an equivalency evaluation request satisfies the existing basic training requirement, a Basic Course Equivalency Examination (BCEE), will be administered by POST staff within fifteen days. If the individual successfully passes the examination, he/she will be deemed by the Commission to have met the basic training requirement. If the individual fails the examination, the department will be notified and, if the department has a POST-approved field training program, in which the individual is participating, will have a maximum of 90 days from date of employment in which peace officer powers may be exercised before being enrolled in a Basic Academy.
8. Each individual who takes the BCEE must pass with a minimum aggregate score of at least 70% and a score of at least 70% on each of the modules. A maximum of three modules of the BCEE may be failed before the individual is required to attend a POST-certified Basic Course to satisfy the basic training requirement.
9. Individuals who fail three or fewer modules of the BCEE must remediate the modules at a POST-certified Basic Course, or at any institution approved by the Commission.

BASIC COURSE EQUIVALENCY PROCEDURE

DETAILED ANALYSIS

The following detailed analysis is provided to support staff recommendations to the Commission:

Eligibility to Take the BCEE

The current wording of the Commission Regulation is as follows: "The Commission may waive, for an already trained peace officer, the completion of any training required by Section 1005 of the Regulations upon acceptance of documentation submitted by a department that the peace officer has satisfactorily completed equivalent training."

Staff recommends that the Commission limit the administration of Basic Course Evaluations/Examinations to officers who are already employed. This recommendation would be in line with the wording and original intent of 1008 and would reduce the number of requests for BCE's currently being made. Adoption of the policy of requiring employment before evaluation would reduce the likelihood of E.E.O.C. or F.E.P.C. complaints being filed in which POST is charged with acting as an employment screening agency.

Departments would be provided documents and information which would enable them to preliminarily evaluate the training already completed by an employee in order to determine what, if any, additional training would be required upon employment.

Recommendation

Require that, as a condition of being evaluated and tested for BCE, individuals be currently employed as law enforcement officers by the agency requesting the evaluation.

Policy Regarding Non-Acceptance of Reserve Training in Equivalency Process

Present Commission policy states that "the POST certified reserve courses do not equate with the basic training requirement (See PAM D-1) for regular officers."

While staff is aware that the Commission adopted the above policy at their July 1978 meeting and that this policy has since been incorporated in Commission Procedure H-3, the issue is raised again because of staff's difficulty in defending the policy to the field.

Most reserve Level I courses, for example, are presented by academies certified to present the regular Basic Course. Very often, the curriculum and instructional staff used to instruct the reserve Basic Course are the same or very nearly the same as that used to instruct regular basic training. Additionally, even the performance objectives used to teach the regular Basic Course are very often used to teach reserve courses (See POST Bulletin 78-18).

In view of these two facts, it is difficult for staff to defend a policy which categorically excludes POST-certified reserve training which closely parallels that presented in the regular POST-certified Basic Course, while at the same time accepting non-certified reserve training and training from out-of-state which is usually not as relevant to Commission Procedure D-1 as the training received in the POST-certified reserve basic training course.

Recommendation

Staff recommends the Commission reconsider its prohibition against POST--certified reserve training being considered in making equivalency evaluations under Commission Regulation 1008 and adopt the following policy:

It is the policy of the Commission that staff evaluate training and education submitted under the provisions of 1008 which may be equivalent to the training required for the regular Basic Course, including POST certified reserve training courses.

Suggested Policy Guidelines

Guidelines should be adopted by the Commission for administration of the BCE process. Based upon the current wording of 1008 which specifically refers to "documentation of equivalent training," staff recommends that additional policy guidelines be adopted to more effectively administer 1008 of the Commission's regulations.

Recommendation

Staff recommends that the Commission adopt the following suggested guidelines for administering 1008 as it pertains to the Basic Course.

1. Individuals must be currently employed as law enforcement officers by the requesting agency in order to be evaluated and tested by POST for Basic Course Equivalency (BCE).
2. Individuals who have completed a POST-certified Basic Course under the former D-1 (200 hour) requirement are, except as otherwise determined by the Commission, deemed to have met the basic training requirements of either new D-1 or D-12, depending upon the individual's peace officer category, and no evaluation or testing is required.
3. All other individuals for whom a basic training equivalency waiver is requested must meet either new D-1 or D-12 standard, depending on the type of employment the individual is applying for.
4. Individuals who meet the current D-1 training standard also meet the training requirements of D-12.

5. POST staff will evaluate training and education submitted under the provisions of 1008 which may be equivalent to the training required for the Basic Course, including POST certified reserve courses. However, no reserve basic training course, in and of itself, will be considered equivalent to the regular POST Certified Basic Course, except upon submission of proof of equivalency acceptable to POST.
6. Equivalency evaluation requests must be accompanied by a comparison of completed training made by the requesting department, using POST Form 2-260, and must specify on the form the basis upon which the equivalency is believed to exist by the department when the training is compared to POST Commission Procedure D-1.
7. When POST determines that the material submitted in connection with an equivalency evaluation request satisfies the existing basic training requirement, a Basic Course Equivalency Examination (BCEE), will be administered by POST staff within fifteen days. If the individual successfully passes the examination, he/she will be deemed by the Commission to have met the basic training requirement. If the individual fails the examination, the department will be notified and, if the department has a POST-approved field training officer program, the individual will have a maximum of 90 days from date of employment in which peace officer powers may be exercised before being enrolled in a Basic Academy.
8. Each individual who takes the BCEE must pass with an aggregate score of at least 70% and, a maximum of three modules of the BCEE may be failed before the individual is required to attend a POST-certified Basic Course to satisfy the basic training requirement.
9. Individuals who fail three or fewer modules of the BCEE must remediate the modules at a POST-certified Basic Course, or at any institution approved by the Commission.

Administration of the Basic Course Equivalency Examination

In the past, an individual who failed the BCEE was allowed to make up portions of the BCEE. This policy enabled an individual who marginally met the former 200-hour, D-1, Basic Course training requirement to take the BCEE, fail part or all of the exam, and then, make up the required training with 200 hours classroom instruction, or less. No time limitations were placed on the make-up period. POST files contained, at any given time, 100 to 120 applications from individuals who, although they failed the BCEE, were in the process of making up deficiencies. Many of these individuals were employed as law enforcement officers and were in violation of 832.3 P.C., because the maximum 90-day period allowed for participating in a Field Training Officer Program had expired prior to a make up of the failed portions and the person was not enrolled in a certified Basic Course.

Staff Recommendations

Authorize staff to establish a minimum score of 70% successfully passing individual modules of the BCEE.

Adopt the policy that an individual must pass the BCEE with an aggregate score of at least 70% and that a maximum of three modules of the BCEE may be failed before the individual is required to attend a POST-certified Basic Course to satisfy the basic training requirement.

Require individuals who fail three or fewer modules of the BCEE to remediate the modules at a POST-certified Basic Course, or at any institution approved by the Commission.

Reciprocity

Staff does not view formal articulated reciprocity agreements with other State agencies comparable to POST as being a currently feasible alternative.

There are several factors working against such an arrangement:

1. There are no firm "state" standards in most of the states at the present time; therefore it is impossible to compare our curricula with the 49 other states.
2. Even with statewide standards, articulation nationally would be a monumental task and reciprocity would have to be renegotiated on a regular basis, because of the changing nature of state standards.
3. The quality of basic training throughout the states varies considerably, and it would be difficult from a qualitative standpoint to assess the training of other states.
4. Even if a system of reciprocity were acceptable, certain "California specific" subjects might be required of out-of-state trained officers, because of the unique and complex nature of certain California laws and procedures.

Recommendation

Staff recommends that the issue of training reciprocity with other states not be addressed at this time for the reasons stated above.

STATUS OF PENDING LEGISLATION OF INTEREST TO POST

ACTIVE*

<u>Bill/Author</u>	<u>Subject</u>	<u>Status</u>	<u>Commission Position</u>
SB 313 (Briggs)	State Police - expands authority of State Police	Governor vetoed	Watch
AB 332 (Mountjoy)	Court Funding: Disposition of Fines - requires the State to reimburse each county for the salary of court personnel	In Assembly	Watch
SB 468 (Dills)	Motorcycle and Motorized Bicycle Rider Training: Funding and Penalty Assessments - creates new special fund	In Assembly	Watch
AB 493 (Moore)	Revise Penalty Assessment to Percentages - deletes the formula \$5 on every \$20 fine or increment	In Assembly	Oppose
SB 729 (Richardson)	D. A. Investigators: POST Reimbursement - Makes counties eligible for reimbursement of District Attorney criminal investigator training	In Assembly	Oppose
AB 796 (McAllister)	Penalty Assessments: Additional Assessment - adds additional penalty assessment on traffic offenses to reimburse DMV for costs of processing traffic citations	In Assembly	Watch
SB 922 (Wilson)	Advanced Driver Training - POST to establish standards	In Senate	Watch
SB 924 (Smith)	Correctional Standards - Board of Corrections to establish	Signed by Governor	Watch
AB 937 (McVittie)	DA's Investigators: POST Reimbursement - makes counties eligible for reimbursement of DA's criminal investigator training	Failed passage in Senate	Oppose
SB 955 (Sutton)	Basic Course: Testing	In Senate	Oppose
AB 1310 (Young)	Selection and Training - POST to develop job-related education and selection standards	Referred to Study	Oppose
AB 1337 (Alatorre)	White Collar and Crime Prevention Training - POST to provide	In Senate	Oppose

*Active means the Commission has or may take an official position.

10/2/79

Memorandum

Robert L. Mukai
Deputy Attorney General
Attorney General's Office

Date : August 7, 1979

From : Commission on Peace Officer Standards and Training

Subject: REQUEST FOR LEGAL ASSISTANCE

Penal Code Section 13510.1, Chapter 231, Statutes of 1979, Assembly Bill 1637 (attached), becomes effective on January 1, 1980. Subdivision (f) of this law states:

The commission shall cancel certificates issued to persons who have been convicted of, or entered a plea of guilty or nolo contendere to, a crime classified by statute or the Constitution as a felony.

The Commission's Regulations and Procedures (attached) currently consider POST's professional certificates to be awards for achievement and are not subject to cancellation because of a person's behavior, including conviction of a felony, subsequent to certificate issuance. The Commission's Regulations and Procedures obviously will be amended to accommodate this new law's provisions.

Question:

Is Penal Code Section 13510.1(f) to be construed to operate only prospectively or does it have retrospective effect as well?

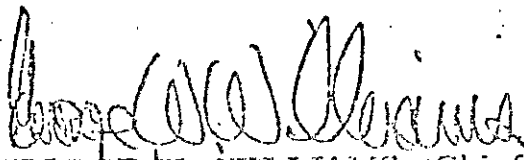
Section (d) of Penal Code Section 13510.1 states:

Persons who are determined by the commission to be eligible peace officers may make application for such certificates, provided they are employed by an agency which participates in the Peace Officer Standards and Training (POST) program.

In Opinion No. CR 75/11 I. L. (attached), the Attorney General's Office responded in the affirmative to the question, "Must the Commission issue certificates to peace officers who are employed by agencies that do not participate in the POST program?"

Question:

Is CR 75/11 J. L. thus overruled by the enactment of Penal Code
Section 13510.1?

A handwritten signature in dark ink, appearing to read "George W. Williams". The signature is stylized with large, flowing letters and a prominent initial "G".

GEORGE W. WILLIAMS, Chief
Center for Police Management

Attachment

BILL ANALYSIS

State of California

Department of Justice

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
7100 Bowling Drive, Sacramento, CA 95823

TITLE OR SUBJECT

Basic Course - Testing

AUTHOR

Assemblyman Fenton

BILL NUMBER

AB 1055

SPONSORED BY Peace Officer Research

Association of California (PORAC)

RELATED BILLS

AB 1310, AB 1637

DATE LAST AMENDED

9-10-79

BILL SUMMARY (GENERAL, ANALYSIS, ADVANTAGES, DISADVANTAGES, COMMENTS)

General

AB 1055, as amended would:

1. Require that the Commission provide the opportunity for testing in lieu of attendance at a basic training academy or accredited college, for those persons who have acquired prior equivalent peace officer training and who are under consideration for hire by an agency participating in the POST program. There shall be a provision for retesting so that any test portion passed need not be retaken.
2. Allow the Commission to charge a fee to cover administrative costs.

Analysis

The proponents of this legislation indicate that passage of this bill would reduce the redundancy of instruction for persons with prior peace officer training and legislatively authorize basic course equivalency testing. To implement the provisions of this proposal the Commission would be required to:

1. Evaluate applicants with prior peace officer training who are under consideration for hire by an agency participating in the POST program, to ascertain whether or not they do, in fact, have equivalent training.
2. Develop and administer an appropriate equivalency examination to persons who have been evaluated and found to be qualified.
3. Provide for retesting so that any portion of the examination previously passed need not be retaken.

The version of AB 1055 which now exists would mandate a testing program very much like the one we are now using. A procedural change relating to retesting for portions failed would replace our current policy of requiring persons who have failed portions of the test to be retrained. AB 1055 would allow the Commission to establish appropriate "procedural guidelines" to administer the test program.

The cost to POST of implementing AB 1055 could range from negligible to a high of \$300,000 for the first fiscal year. Retention of the present program with a procedural change to accommodate the retesting feature would meet the letter of the law and not require significant additional funds. The development of a new test utilizing performance objectives and hands-on skill testing would require the larger expenditure. The level of compliance would be determined by the Commission. The cost related to testing would be offset to an unknown degree by basic course reimbursement saving resulting from pre-employment training. The fee provision of the bill would also allow POST to recover certain "administrative"

OFFICIAL POSITION

ANALYSIS BY

Don Beauchamp

DATE

9-24-79

REVIEWED BY

Wm. Stork

DATE

9-25-79

EXECUTIVE DIRECTOR

William C. Bell

DATE

9-25-79

COMMENT

costs from the applicant.

AB 1055 has been heavily amended to remove two of the major provisions of the original bill. The sections removed include 1) restructuring of the basic academy into separate knowledge and skill subject areas, and 2) the testing of persons who are graduates of college knowledge oriented courses in lieu of their attending the knowledge portion of the certified basic course. The remaining provision relating to the testing opportunity for persons with prior peace officer training was amended to restrict this option to persons who have equivalent training and who are under consideration for hire by an agency participating in the POST program.

Comments

Because of the amendments which have been incorporated into the bill, the majority of the organizations which originally opposed the legislation have now dropped their opposition. Major organizations which now are neutral on the bill include the California Academy Directors' Association (CADA), California Association of Administration of Justice Educators' (CAAJE), California Peace Officers' Association (CPOA), California Highway Patrol, the San Francisco Police Department, the League of California Cities, and the County Supervisors' Association. POST was the only agency testifying in opposition to the bill at the last hearing.

As a result of the changes in the bill, POST opposition now centers on the loss of administrative flexibility. Our testimony has been that the provisions of this bill are being met administratively and are therefore unnecessary. This argument was not persuasive at the last hearing as most committee members saw great merit in legislative recognition of prior equivalent training and a possible net savings to agencies and the POST fund resulting from pre-employment training.

The Commission, at its April 1979 Commission meeting, voted to officially oppose AB 1055. This was based on the original version of the bill which significantly affected the POST program. Because the amendments have substantially altered the impact of this legislation, staff felt the position of POST should be re-examined by the Commission.

Recommendation

It is recommended that the Commission adopt one of two alternatives. They are:

- 1) Neutral, based on minimal impact to the POST program.
- 2) Opposition, based on loss of administrative flexibility.

Memorandum

To : Honorable Chairman and
Members of the Commission

Date : September 25, 1979

Commission on POST

From : Commission on Peace Officer Standards and Training

Subject: LEGISLATION

ISSUE

Should the POST Commission sponsor legislation which would allow law enforcement officers to exercise peace officer powers while employed off-duty as a private security guard.

BACKGROUND

The California State Supreme Court, in the case of Cervantez vs. J. C. Penney Co., ruled on June 15, 1979 that off-duty peace officers, paid by a private employer to perform security guard functions, cannot exercise peace officer powers while so employed. The court concluded that since the officer in question was receiving private payment for the performance of his official duties, he must have been performing private, rather than official duties while acting within the course and scope of his employment as a private security guard. The court stated that the officer was acting as a private citizen in the course of private employment at the time he made the arrest. This ruling reinforces a similar 1978 decision made by the same court in the People vs. Sandra Corey.

ANALYSIS

Section 7522 of the Business and Professions Code was amended this year to exclude off-duty peace officers from regulations governing private security personnel. The provisions of this law change brought about by passage of AB 286 will take effect January 1, 1980. Although this legislation cleared up the issue of compliance with private security regulations, it did not address the problem of peace officer powers for off-duty law enforcement officers employed as private security guards. As a result of the California Supreme Court decisions, these officers may not exercise peace officer powers while employed part-time as private security guards.

The Implication of these Supreme Court decisions are far ranging and will undoubtedly affect a number of law enforcement agencies. In addition to the more obvious problems concerning arrest and assault on a peace officer provisions, there are more subtle complications relating to workmens' compensation, insurance and liability. Certainly, this matter is one that should be resolved as soon as possible to forestall legal complications and protect the parties involved.

The Supreme Court has made clear its position on the matter and it is obvious that a change in the law will be required to remedy the situation. The question before the Commission is whether or not POST is the appropriate agency to introduce and/or support proposed legislation.

The Commission policy regarding legislation was defined at the October 29, 1976 Commission meeting as "identifying, anticipating, and soliciting legislative needs related to POST and its objectives." Assuming that the Commission still wishes to continue this policy, it would appear that the issue is one that should be directly addressed by the concerned agencies, with POST assuming a supportive role. Both the California Peace Officers' Association (CPOA), and the Peace Officers' Research Association of California (PORAC), have indicated a willingness to work with law enforcement in developing suitable legislation.

RECOMMENDATION

It is recommended that the Commission not sponsor legislation to correct this problem, but rather act to support legislation developed and introduced by other law enforcement agencies or organizations.

DCB/ssc

Assembly Bill No. 286

CHAPTER 411

An act to amend Section 7522 of the Business and Professions Code, relating to private patrol officers.

[Approved by Governor August 1, 1979. Filed with
Secretary of State August 1, 1979.]

LEGISLATIVE COUNSEL'S DIGEST

AB 286, Knox. Private patrol officers.

Existing law exempts various individuals from the provisions of the Private Investigator and Adjuster Act.

This bill would provide that the provisions of the act are not applicable to a peace officer of this state or a political subdivision thereof while such peace officer is employed by a private employer to engage in off-duty employment which is not inconsistent, incompatible, or in conflict with, or inimical to, his or her duties as a peace officer and which is approved, if necessary, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 7522 of the Business and Professions Code is amended to read:

7522. This chapter does not apply to:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship, provided that such person at no time carries or uses any deadly weapon in the performance of his or her duties. For purposes of this subdivision, "deadly weapon" is defined to include any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade and any metal pipe or bar used or intended to be used as a club.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while such officer or employee is engaged in the performance of his official duties, including uniformed peace officers employed part time by a public agency pursuant to a written agreement between a chief of police or sheriff and the public agency, provided such part-time employment does not exceed 50 hours in any calendar month.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state which is organized and

maintained for the public good and not for private profit.

(e) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (1) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (2) must be not less than 18 years of age nor more than 40 years of age, (3) must possess physical qualifications prescribed by the commission, and (4) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(f) An attorney at law in performing his duties as such attorney at law.

(g) A licensed collection agency or an employee thereof while acting within the scope of his employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(h) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(i) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage.

(j) Any bank subject to the jurisdiction of the Superintendent of Banks of the State of California or the Comptroller of Currency of the United States.

(k) A person engaged solely in the business of securing information about persons or property from public records.

(l) A peace officer of this state or a political subdivision thereof while such peace officer is employed by a private employer to engage in off-duty employment in accordance with the provisions of Section 1126 of the Government Code.

that he violated Federal Aviation Regulations and had been convicted of possessing marijuana for sale.

On the night of December 17, 1975, Deputies Chapin and Mergell of the Mojave County, Arizona Sheriff's Office kept watch for drug smuggling activities at an isolated and deserted airstrip. A few hours after the Deputies arrived, they heard a plane flying low over the airstrip. The Deputies did not see the plane until moments before it landed; until then the plane was being operated without lights.

When the engines were shut down, Chapin approached the plane and questioned the pilot. The pilot identified himself as "Don Walters." Chapin then examined four documents which the pilot produced: a pilot certificate, California driver's license, a medical certificate, and a radio telephone operator's certificate. Each document was in the name of and signed "Donald Lee Walters."

The Deputies inspected the plane and found that its registration marks were concealed by a patch which showed false marks. Inside the cabin, where all but one of the four seats had been removed, the Deputies found 12 five-gallon cans of gasoline.

The pilot was arrested for conspiracy to smuggle marijuana.

On the following day, a third Deputy inspected the plane and found that the tachometer cables had been disconnected. Later, the Deputies found that the plane was owned and registered in California by the Petitioner's business partner.

In May 1976, the Federal Aviation Administration (FAA) revoked Petitioner's pilot license because of his 1974 marijuana conviction, 14 C.F.R. §61.15,^{1/} and because of six violations of Federal Aviation Regulations committed during the flight on December 17, 1975.

Petitioner appealed asserting that 14 C.F.R. §61.15 was invalid because it exceeded the FAA's statutory authority and because the FAA lacked "unequivocal" proof that he was the arrested pilot.

At a hearing before an Administrative Law Judge in September 1976, Deputy Chapin testified that the photograph on the driver's license was of the pilot he arrested.

Petitioner did not testify or call witnesses. The Judge found that the FAA proved, by a preponderance of "credible, reliable, probative, and substantial evidence," that Petitioner was the arrested pilot and that he violated Federal Aviation Regulations.

The Judge upheld the FAA order of revocation after rejecting Petitioner's contentions that section 61.15 exceeded the FAA's statutory authority and was constitutionally invalid.

Petitioner again appealed, this time to the National

1/ 14 C.F.R. §61.15 provides that "(a) No person who is convicted of violating any Federal or State statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of...marijuana...is eligible for any certificate or rating issued under this part for a period of 1 year after the date of final conviction.

"... (c) Any conviction specified in paragraph (a) of this section...is grounds for suspending or revoking any certificate or rating issued under this part."

Transportation Safety Board. The Board held that section 61.15 is reasonably related to the safety purpose of the Federal Aviation Act, 49 U.S.C. §1421 *et seq.*, and that there is a rational connection between drug trafficking in the past and unsafe aircraft operations in the future. The Board also decided that the Judge applied the correct standard of proof on the issue of identity. It found no grounds for disturbing the Judge's findings of fact on that issue and affirmed.

In this court, Petitioner renounces both challenges to the revocation order.

We hold that there is a rational relation between a conviction for the possession of drugs for sale and the unsafe use of aircraft for drug smuggling, and that section 61.15 is constitutionally valid.

We also reject Walters' contention that the Judge applied the wrong standard of proof on the issue of identity. The Sheriff's Deputies' testimony made out a *prima facie* case that Petitioner was the pilot they arrested. The burden shifted to Petitioner to present evidence that he was not the pilot. *Newman v. Shaffer*, 494 F.2d 1219 (2nd Cir. 1974).

Walters presented no evidence.

Proof by a preponderance of reliable, probative, and substantial evidence is the proper standard. 5 U.S.C. §556(d). Here the agency met that standard.^{2/}

The petition for review of the revocation order is therefore

Private Citizen's Standard Applied to Arresting Officer

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

FIDEL CERVANTES,
Plaintiff and Appellant,

v.
J. C. PENNEY COMPANY, INC.,
et al.,

Defendants and Respondents.

L.A. 31041
Super.Ct. No. 102640

24 Cal 3d 579

Plaintiff Fidel Cervantes appeals from a judgment for defendants J. C. Penney Company, Inc., and Dennis R. Dehike in an action for damages for false arrest and imprisonment, malicious prosecution, assault and battery, intentional infliction of emotional distress and negligence. At the close of plaintiff's case in chief, the trial court granted defendants' motion for nonsuit as to the causes of action for intentional infliction of emotional distress and negligence. The jury returned a general verdict in favor of defendants on the remaining causes of action.

Plaintiff's primary contention is that the court erred in instructing the jury on the standards for determining the lawfulness of his arrest. He also contends that the court

2/ Even if the Petitioner were correct in contending that the identity issue must be proved by "clear, convincing, and unequivocal evidence," the evidence here satisfied that standard.

erred in granting the motion for nonsuit on the causes of action for intentional infliction of emotional distress and negligence, that the court improperly instructed the jury in numerous particulars, that the court erred in refusing certain evidence, and that the evidence does not support the verdict.

On May 16, 1971, the day of the arrest giving rise to this lawsuit, defendant Dahlke, an off-duty police officer, was working as a security guard at the J. C. Penney store in Huntington Beach. Dahlke, who was not wearing a uniform, noticed plaintiff and his companion, Alexander Garcia, walk into the store. Because of their behavior and appearance, Dahlke suspected they might be part of a Mexican-American theft ring that he had heard was operating in Orange County stores. Dahlke testified that the two men seemed nervous and looked around as they entered the store but did not seem to be looking for anything in particular. He also testified that plaintiff was wearing an open, long-sleeved, untucked shirt similar to the mode of dress of a narcotics addict.

Dahlke followed the two men through the store and observed them move from department to department picking up and replacing various items while looking from side to side and behind them in a nervous manner. He observed Garcia make a purchase in the camera department. They ultimately arrived in the hardware department on the third floor where Dahlke observed plaintiff pick up and put down several items but retain what appeared to be a pair of pliers or wirecutters and hand them to Garcia. Garcia took them along with the other items he had picked up into a small metal shed on display. Plaintiff helped Garcia slide the door almost shut and then paced nervously in front of the shed. Dahlke observed Garcia bend over in the shed and then emerge from it carrying two bags, one of which Dahlke had not previously noticed.

After the two men went to the escalator, Dahlke quickly checked the shed, found no merchandise and caught up with the pair while they were still on the escalator. The surveillance continued until plaintiff and Garcia left the store. Dahlke then stopped them, identified himself as "a police officer working security for Penney's" and asked to see their identification. Garcia was carrying two bags, an untaped Montgomery Ward's bag and a Penney's bag with a receipt stapled on the top. Dahlke looked into the Ward's bag and saw various items with a Penney's label on them.

Edward Ruddy, another security guard who had joined Dahlke in his surveillance on the third floor, corroborated Dahlke's testimony as to the stop and the items found in the Ward's bag. Ruddy said he saw no receipts in the bag.

Plaintiff denied that he or Garcia, who was his brother-in-law, stole any merchandise from Penney's. Plaintiff testified that Garcia had bought the items in the Ward's bag at Ward's and that the bag was stapled shut with a receipt on the top. Garcia did not testify.

Theft charges were brought against plaintiff and Garcia. The allegedly stolen items, retained in the Penney security office for safekeeping, were either lost or destroyed prior to the criminal trial. The theft charges against plaintiff were dismissed. Garcia was allowed to plead guilty to a lesser charge of trespass.

Prior to trial in the present case the parties stipulated that at the time of the arrest Dahlke was a full-time employee of the City of Orange Police Department, was working within the scope of his employment as a security officer at the Penney store in the City of Huntington Beach and was being paid by Penney. They further stipulated that plaintiff was arrested on the Penney premises by Dahlke and that Dahlke caused someone from the Huntington Beach Police Department to come to the store and take plaintiff into custody and book him. Also introduced at this time was an agreement which had been executed by the chiefs of police of the cities of Orange County (including the cities of Orange and Huntington Beach) in which each consented pursuant to Penal Code section 830.1 to extend the authority of peace officers within his jurisdiction to any member of the other signatory police departments. Based upon the stipulations and the consent agreement signed by the police chiefs the trial court determined that Dahlke was acting as a peace officer at the time of the arrest and thereafter instructed the jury on the standards applicable to arrests by peace officers.

Plaintiff contends that the instructions on the standards for determining the legality of his arrest were erroneous because Dahlke was acting as a private citizen in the course of his private employment when he made the arrest. The authority of a private citizen to make an arrest is more limited than that of a peace officer. A peace officer may arrest a person without a warrant whenever he has probable cause to believe that the person has committed a misdemeanor in his presence. (Pen. Code, § 836, subd. 1.) A private citizen, however, may arrest another for a misdemeanor only when the offense has actually been committed or attempted in his presence. (Pen. Code, § 837, subd. 1.)

Plaintiff argues that the trial court's determination that Dahlke was acting as a peace officer at the time of the arrest is contrary to our recent decision in *People v. Corey* (1978) 21 Cal.3d 738. We agree. In *Corey* we held that an off-duty police officer who was acting within the scope of his employment as a private security guard was not engaged in the performance of his duties as a peace officer for purposes of application of the enhanced punishment provisions of Penal Code section 264 for battery on a peace officer. Our holding was based on a number of statutory provisions which, in our view, evinced a legislative policy against according peace officer status and protections to actions of off-duty police officers performed within the course and scope of their private employment as security guards. These provisions include the Private Investigator and Adjuster Act (PIAA) (Bus. & Prof. Code, § 7500 et seq.) and Penal Code section 70.

The PIAA is a comprehensive act which regulates the occupations of private investigator, private security guard and similar pursuits. Its provisions reveal an intent of the legislature to eliminate to the extent possible public confusion between private security guards and local law enforcement officers. The PIAA provides that no person subject to its regulatory provisions may "use a title, or wear a uniform, or use an insignia, or use an identification card, or

make any statement with the intent to give an impression that he is connected in any way with . . . any political subdivision of a state government." (Bus. & Prof. Code, § 7538, subd. (e).)

We held in Corey that peace officers are subject to the regulatory provisions of the PIAA when they are employed during their off-duty hours as private security guards. A police officer is thus prohibited from wearing his uniform or indicating in any way that he is a police officer when he is acting within the scope of his private employment as a security guard. Although an off-duty police officer may perform various acts in his capacity as a private security guard which coincide with his duties as a peace officer, we concluded in Corey that the Legislature's deliberate decision in 1973 to include such persons within the regulatory provisions of the PIAA indicated a policy "whereby the fact of private employment operates to prevent a peace officer from acting in what would otherwise be his official capacity."^{1/} (21 Cal.3d at p. 745.)

More important in the present inquiry, however, is Penal Code section 70 wherein the Legislature has specifically made it illegal for any public employee or officer to receive any "emolument, gratuity or reward, or promise thereof . . . for doing an official act." Since a police officer is forbidden from receiving private payment for the performance of his official duties, we concluded in Corey that the officer there must have been performing private rather than official duties while he was acting within the course and scope of his private employment as a security guard during his off-duty hours.

Our reasoning in Corey leads to a similar conclusion in this case. If what Dahlke was doing was not in violation of Penal Code section 70, it must be because he was performing private rather than official duties while he was acting within the course and scope of his private employment with J. C. Penney. If Dahlke was performing only a private contractual duty at the time he arrested plaintiff, it logically follows that he was not acting pursuant to his official duties as a peace officer. Since it would have been illegal for Dahlke to have been acting as a peace officer in the performance of official duties at the time he arrested plaintiff pursuant to his private employment, we conclude that Dahlke was acting as a private citizen when he arrested plaintiff. It is thus the fact of private employment which operates to prevent a peace officer from acting in what would otherwise be his official capacity. We do not suggest that a peace officer's official duties necessarily cease at the end of his normal working hours (cf. People v. Dorby (1960) 177 Cal.App.2d 626, 630-631) where there are no private contractual duties of the nature involved in this case. (See People v. Corey, *supra*, 21 Cal.3d at p. 746.) We disapprove Dowdell v. Oak Drug Co. (1932) 121 Cal.App. 316

^{1/} Although we recognize that the arrest in this case occurred in 1971 when peace officers were exempted from the operation of the PIAA so long as their private employment did not exceed 50 hours per calendar month, we do not find lack of coverage under the PIAA to be determinative of the issue in this case. As will appear, it is the provisions of Penal Code section 70 rather than the PIAA which, in our view, are determinative in this case.

and People v. Millard (1973) 13 Cal.App.3d 759, to the extent they are inconsistent with this opinion.

It therefore follows that the court erred in instructing the jury on the standards applicable to an arrest by a peace officer. It has been urged, however, that the error does not require reversal because proper instructions in this case would still have included the concept of probable cause in determining the lawfulness of Dahlke's actions on behalf of J. C. Penney Co.

At the time of the arrest in this case, merchants were protected from civil liability for false arrest or false imprisonment by a common law privilege that permitted the merchant to detain for a reasonable time and in a reasonable manner for investigation any person whom the merchant had probable cause to believe had unlawfully taken or attempted to take merchandise from the premises. (Collyer v. S. H. Kress Co. (1936) 5 Cal.2d 175; King v. Andersen (1966) 242 Cal.App.2d 606; People v. Zelinski (1979) 24 Cal.3d 357.) The privilege to detain upon probable cause was established in an effort to harmonize the individual right to liberty with the inherent right of an owner of property to protect his interest in that property. (Collyer v. S. H. Kress & Co., *supra*, 5 Cal.2d at pp. 180-181; see Note, The Privilege of Detention for Investigation: Collyer v. Kress Co. Revisited (1961) 13 Hastings L.J. 156; Note, Merchants' Responses to Shoplifting: An Empirical Study (1976) 28 Stan.L.Rev. 589, 592-594.) The merchant's privilege has since been codified as subdivision (c) of Penal Code section 490.5. That section provides in part that a merchant may detain a person for a reasonable time when he has probable cause to believe the person is shoplifting, that he may use reasonable nondeadly force in effecting such a detention, that he may examine any items in plain view which he has reasonable cause to believe have been unlawfully taken from his premises, and that it shall be a defense to an action for false arrest or imprisonment based upon such a detention that the merchant had probable cause to believe the person detained had stolen or attempted to steal merchandise and that the merchant acted reasonably under the circumstances.^{2/}

^{2/} Subdivision (c) provides in pertinent part: "(1) A merchant may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the merchant has probable cause to believe the person to be detained is attempting to unlawfully take or has unlawfully taken merchandise from the merchant's premises.

"(2) In making the detention a merchant . . . may use a reasonable amount of nondeadly force necessary to protect himself and to prevent escape of the person detained or the loss of property.

"(3) During the period of detention any items which a merchant . . . has reasonable cause to believe are unlawfully taken from the premises of the merchant . . . and which are in plain view may be examined by the merchant . . . for the purposes of ascertaining the ownership thereof.

"(4) In an action for false arrest, false imprisonment, slander or unlawful detention brought by any person detained by a merchant, it shall be a defense to such action that the merchant detaining such person had probable cause to believe that the person had stolen or attempted to steal merchandise and that the merchant acted reasonably under all the circumstances."

Subdivision (c) became effective on January 1, 1977. The Legislature made clear that the provisions of subdivision (c) of section 490.5 "do not constitute a change in, but are declaratory of, the existing law, and such provisions shall not be interpreted to amend or modify Sections 837, 847, and 849 of the Penal Code." (Stats. 1976, ch. 1131, § 3, p. 3049.)

Subdivision (c) was amended in 1978 to add an analogous privilege for prevention of library theft. (Stats. 1978, ch. 393, § 2, p. ____.)

The applicability of the probable cause defense in this case depends upon whether the merchant's privilege extends to suits based upon an arrest as well as upon a detention.^{3/} In *Collyer*, the case that established the privilege, the court's inquiry was limited to the question of the right of the merchant to detain upon probable cause; the arrest in that case was made by the police. (*Collyer v. B.H. Kress & Co.*, *supra*, 5 Cal.2d at pp. 179-180.) The subsequent codification of the privilege in subdivision (c) of Penal Code section 490.5 also refers only to detentions. There is no suggestion in either of these authorities that the privilege should include arrests as well, and there are sound policy reasons for not so extending the privilege. Extension of the privilege to include the right of a merchant to arrest for a misdemeanor upon probable cause would effectively eradicate the clearly intended statutory distinction between the authority of a peace officer and of a private citizen to effect an arrest for a misdemeanor.^{4/} It would also upset the delicate balance struck in *Collyer* between the individual's right to liberty and the property owner's right to protect his property. A privilege to detain was deemed sufficient to protect the property owner's private interest in preventing the theft of his property (see also *People v. Zelinski*, *supra*, 24 Cal.3d at p. 364), whereas a privilege to arrest a person who had not in fact committed an offense in the merchant's presence solely on the basis of probable cause would constitute a substantial further encroachment on the individual's right to liberty.^{5/} Accordingly, we conclude that the merchant's probable cause defense is limited to suits based upon a detention and does not extend to suits based upon an arrest.

Since in this case the false imprisonment cause of action was based upon Dahlke's arrest of plaintiff,^{6/} the instructions on the lawfulness of Dahlke's actions as a private person should not have stated that the arrest was lawful if Dahlke had probable cause to believe an offense was committed in his presence.

We also conclude that the error was prejudicial.

3/ We reject plaintiff's assertion that the merchant's privilege was inapplicable to him because he was not carrying the bags which were thought to contain the stolen goods. The reasoning underlying the establishment of the privilege, in our view, is clearly broad enough to encompass a privilege to detain a person whom the merchant has probable cause to believe has been assisting another in shoplifting and who is accompanying the latter when he is stopped.

4/ The authority of a peace officer to make a warrantless arrest for a misdemeanor was formerly coextensive with the authority of a private person. Each was authorized to arrest for a "public offense committed or attempted in his presence." (See Pen. Code, §§ 836, 837.) In 1957, in *Governors v. Davies*, 18 Cal.2d 115, we interpreted such language in section 836 as authorizing a peace officer to arrest when he has probable cause to believe a misdemeanor is being committed in his presence. In 1957, the Legislature amended section 836 to authorize a peace officer to make a warrantless arrest "whenever he has reasonable cause to believe that the person to be arrested has committed a public offense in his presence." In so doing, however, the Legislature left section 837 on citizen arrest untouched, thereby indicating an intent to distinguish between the authority of a peace officer and of a private citizen to arrest for a misdemeanor.

5/ Although the line may at times be a fine one, there is a well-settled distinction in law between an arrest and a detention. A detention is a lesser intrusion upon a person's liberty requiring less cause and consisting of briefly stopping a person for questioning or other limited investigation. (See *Dahlke v. City of Los Angeles* (1978) 22 Cal.3d 126, 132-133; In re Tony G. (1978) 21 Cal.3d 688, 692-696.)

6/ The parties in this case stipulated that Dahlke arrested plaintiff.

On the evidence before it the jury could have found that plaintiff committed no offense in Dahlke's presence but that Dahlke had probable cause to believe that plaintiff did so. Since the defense verdict may have been based on this erroneous theory, it is reasonably probable that a result more favorable to plaintiff would have been reached in the absence of the error. The error therefore requires reversal. (*Henderson v. Harnischfeger Corp.* (1974) 12 Cal.3d 663, 673-674; *People v. Watson* (1956) 46 Cal.2d 818, 836; Cal. Const., art. VI, § 13.)

For guidance in the event of a retrial, we will address certain of plaintiff's other contentions.

Plaintiff contends the court erred in instructing the jury that the plaintiff had the burden to prove the unlawfulness of the arrest in the cause of action for false imprisonment. Plaintiff argues that since there was uncontradicted evidence that he was arrested and imprisoned without a warrant, the burden was on defendants to show justification. Plaintiff's argument is amply supported by authority. (See, e.g., *Monk v. Ehret* (1923) 192 Cal.186, 189; *Hughes v. Oreb* (1951) 36 Cal.2d 854, 858; *Dragna v. White* (1955) 45 Cal.2d 469, 471; *Collins v. Jones* (1933) 131 Cal.App. 747, 750; *Kaufman v. Brown* (1949) 93 Cal.App.2d 508, 511-513; *Collins v. Owens* (1947) 77 Cal.App.2d 713, 715-718.)

It has long been the law that a cause of action for false imprisonment is stated where it is alleged that there was an arrest without process, followed by imprisonment and damages. Upon proof of those facts the burden is on the defendant to prove justification for the arrest.^{7/} (See *Hughes v. Oreb*, *supra*, 36 Cal.2d at p. 858; *Dragna v. White*, *supra*, 45 Cal.2d at p. 471.) Considerations of both a practical and policy nature underlie this rule. The existence of justification is a matter which ordinarily lies peculiarly within the knowledge of the defendant. The plaintiff would encounter almost insurmountable practical problems in attempting to prove the negative proposition of the nonexistence of any justification. (See *People v. Agnew* (1940) 16 Cal.2d 655, 663-664.) This rule also serves to assure that official intermeddling is justified, for it is a serious matter to accuse someone of committing a crime and to arrest him without the protection of the warrant process. (See Evid. Code, § 664; see also Evid. Code, § 520.)

We are convinced that the present rule is supported by sound authority and logic, and we therefore decline to depart from it.^{8/} We disapprove *Whaley v. Kirby* (1962) 208 Cal.App.2d 232 and *Wilson v. County of Los Angeles* (1971) 21 Cal.App.3d 308, to the extent they are inconsistent with this opinion.

7/ Although there has occasionally been some confusion about the meaning of the term "burden of proof," it has always been used in this situation to refer to the burden of persuasion on the issue rather than simply the burden of producing evidence on it. (See *People v. Agnew* (1940) 16 Cal.2d 655, 663-664; *Hughes v. Oreb*, *supra*, 36 Cal.2d at p. 858; *Dragna v. White*, *supra*, 45 Cal.2d at p. 471; see also Evid. Code, §§ 115, 605, 520.)

8/ It is noteworthy that the Legislature has specifically excepted the issue of the lawfulness of a warrantless arrest from the general presumption that an official duty has been regularly performed. (Evid. Code, § 664.) No reason appears why a presumption of lawfulness should attach to an arrest by a private citizen when the Legislature has chosen to deny such a presumption to a warrantless arrest by a peace officer.

Plaintiff further contends that the court erred in granting defendant's motion for nonsuit as to the cause of action for intentional infliction of emotional distress and negligence. A nonsuit may be granted only when, disregarding conflicting evidence and giving to plaintiff's evidence all the value to which it is legally entitled, indulging in every legitimate inference which may be drawn from that evidence, the result is a determination that there is no evidence of sufficient substantiality to support a verdict in favor of the plaintiff. (Estate of Callahan (1967) 67 Cal.2d 609, 612.)

The elements of a prima facie case for the tort of intentional infliction of emotional distress are: (1) extreme and outrageous conduct by the defendant with the intention of causing, or reckless disregard of the probability of causing, emotional distress; (2) the plaintiff's suffering severe or extreme emotional distress; and (3) actual and proximate causation of the emotional distress by the defendant's outrageous conduct. (Fletcher v. Western National Life Ins. Co. (1970) 10 Cal.App.3d 376, 394; Alcorn v. Ambro Engineering, Inc. (1970) 2 Cal.3d 493, 497-499; State Rubbish etc. Assn. v. Siliznoff (1952) 38 Cal.2d 330, 336-339; 4 Witkin, Summary of Cal. Law (8th ed.) Torts, ff 234-237, pp. 2515-2517.) "Whether treated as an element of the prima facie case or as a matter of defense, it must also appear that the defendants' conduct was unprivileged." (Fletcher v. Western National Life Ins. Co., *supra*, 10 Cal.App.3d at p. 394; State Rubbish etc. Assn. v. Siliznoff, *supra*, 38 Cal.2d at p. 339; Rest. 2d Torts, § 46, com. g.) Conduct to be outrageous must be so extreme as to exceed all bounds of that usually tolerated in a civilized community. (Alcorn v. Ambro Engineering, Inc., *supra*, 2 Cal.3d at p. 499, fn. 5; Turner v. Perez (1977) 66 Cal.App.3d 163, 170; Rest. 2d Torts, § 46, com. d.)

We agree with plaintiff that the court erred in granting defendants' motion for nonsuit on the cause of action for intentional infliction of emotional distress. Although there was strongly conflicting evidence on the question, plaintiff presented evidence which, if believed, would reasonably support an inference that Dahlke arrested him either with knowledge that plaintiff had not committed any offense or with reckless disregard of whether he had or not. That evidence, along with other evidence presented by plaintiff, would have been sufficient to support a verdict in his favor on this cause of action.

No error appears in the granting of the motion for nonsuit on the negligence cause of action. The sole allegation of negligence contained in the complaint reads as follows: "At said time and place, defendants, and each of them, so negligently, carelessly and improperly [sic] selected, hired, trained, defendant, Dennis R. Dahlke, as a security officer for said store as to cause said defendant, Dennis R. Dahlke, to assault,

batter, and falsely and carelessly accuse plaintiff of a crime, to cause plaintiff to suffer severe emotional and physical distress and shame and humiliation, to falsely imprison plaintiff and cause plaintiff to be falsely prosecuted by the authorities for crimes plaintiff did not commit, and to cause the evidence of his innocence [sic] to be lost or destroyed so that he could not quickly acquit himself of any such alleged crime." (Emphasis added.)

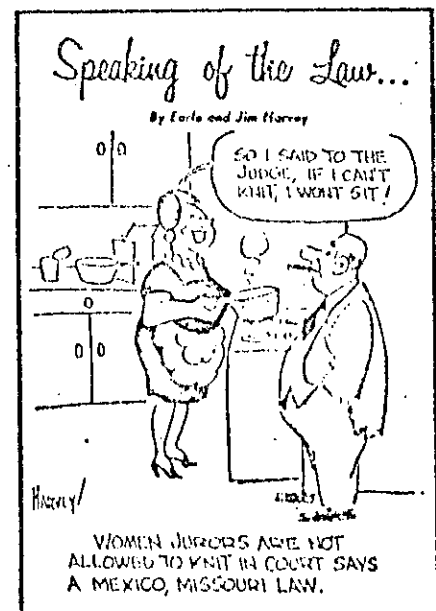
The charged negligence was in the selecting, hiring and training of Dahlke. There was a total failure of proof of any negligence in hiring or training. Upon realizing this at the time of the motion for nonsuit, plaintiff unsuccessfully moved to amend the complaint to allege negligence in the arrest and in the preservation of the property seized. Given the magnitude of the proposed amendment and the stage of the proceedings, it cannot be said that the court abused its discretion in denying leave to amend. (See Young v. Barry Equipment Rentals, Inc. (1976) 55 Cal.App.3d 35, 36-40; Badolla v. Logan & Fraser (1975) 52 Cal.App.3d 118, 135-136; Code Civ. Proc., § 473; 3 Witkin, Cal. Procedure (2d ed.) Pleading, § 1043, pp. 2673-2675.)

The judgment insofar as it reflects the granting of the motion for nonsuit on the cause of action for negligent conduct is affirmed; in all other respects the judgment is reversed.

MANUEL, J.

WE CONCUR:

BYRD, C.J.
TOBRINER, J.
HOSK, J.
CLARK, J.
RICHARDSON, J.
NEWMAN, J.



2/ It would not, however, be sufficient to establish a cause of action for intentional infliction of emotional distress for the jury to find that Dahlke falsely arrested plaintiff, for, as we have seen, such a finding could be based on no more than a reasonable mistake on Dahlke's part that plaintiff had committed an offense in his presence.

AGENDA ITEM SUMMARY SHEET

Agenda Item Title Organizational Survey Committee Report		Meeting Date October 24/25, 1979
Division Executive Office	Division Director Approval <i>R.T. Allen</i>	Researched By Ron T. Allen
Executive Director Approval <i>Merrill C. Beckm</i>	Date of Approval October 11, 1979	Date of Report October 9, 1979
Purpose: Decision Requested <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Status Report <input type="checkbox"/> Financial Impact <input type="checkbox"/> Yes (See Analysis per details) <input type="checkbox"/> No <input type="checkbox"/>		

In the space provided below, briefly describe the ISSUES, BACKGROUND, ANALYSIS and RECOMMENDATIONS. Use separate labeled paragraphs and include page numbers where the expanded information can be located in the report. (e.g., ISSUE Page _____).

ISSUE

Accept the proposed statement of the role of the Advisory Committee put forth by the Organizational Survey Committee and the Advisory Committee.

BACKGROUND

The Organizational Survey Committee met on August 23, 1979 with the Advisory Committee in the POST Executive Directors' Conference Room in Sacramento to discuss defining what the Commission expects of the Advisory Committee, and from the input of that meeting a role statement was prepared subsequently. (Attachment)

ANALYSIS

The Organizational Survey Committee's purpose was to study the Advisory Committee to see if, first of all, there was a need for an Advisory Committee. It was agreed upon by the Commission that the Advisory Committee serves a useful purpose and should be retained. However, clarification of the role of the Committee was needed. The Organizational Survey Committee will meet with the Advisory Committee on October 24, 1979 to review the proposed role statement for recommendation to the Commission.

RECOMMENDATION

Accept the proposed statement of the role of the Advisory Committee.

Memorandum

To : Members of Advisory and Commission
Organizational Survey Committees

Date : September 17, 1979

Bill
William N. Stahr, Bureau Chief
Executive Office

From : Commission on Peace Officer Standards and Training

Subject: ADVISORY COMMITTEE MEETING, OCTOBER 24, 1979

Date and Time: 9:30 a.m., Wednesday, October 24, 1979
(day before the Commission meeting)

Location: Executive Directors' Conference Room,
POST Headquarters, 7100 Bowling Drive,
Sacramento, CA 95823

Note: Members of the Commission's Organizational
Survey Committee will meet with the Advisory
Committee in the afternoon session, beginning
at 1:30 p.m.

Enclosed are copies of the agenda and the proposed statement of the Role of
the Advisory Committee.

If you plan to stay over for the Commission meeting on October 25-26, 1979
at the Sacramento Inn, and need room reservations or assistance with travel
arrangements, please call Sally Carney (Executive Office) at (916) 445-4515
before October 8, 1979.

WNS/ssc
Attachments

ADVISORY COMMITTEE

9:30 a.m., October 24, 1979, POST Headquarters
(Afternoon: Meet with Commission Organizational Survey Committee)

A G E N D A

- A. Call to Order
- B. Introductions
- C. Approval of Minutes of August 23, 1979 Meeting
- D. Briefing by Executive Director Boehm
- E. Legislation Update (Don Beauchamp)
- F. Proposed Statement of Role of the Advisory Committee
- G. Review of Commission Agenda
- H. Reports from Members
- I. Meeting Dates for 1980
- J. Commission Organizational Survey Committee
- K. Adjournment

ROLE OF THE POST ADVISORY COMMITTEE

Purpose

The Advisory Committee of the Commission on Peace Officer Standards and Training is established for the principal purpose of providing two-way communications between the Commission and associations and organizations sharing a vital interest in the activities and decisions of the Commission. The Advisory Committee shall be a consortium of representatives of common interest groups which convenes periodically to give and receive information, review projects and programs, and make recommendations to the Commission.

Procedures

The Advisory Committee may:

- o Receive briefings on POST's programs, projects, and major issues.
- o Call to the attention of the Commission any suggestions or concerns of members' associations and the Advisory Committee collectively.
- o Formulate specific proposals for consideration when directed by the Commission.

The Advisory Committee does not have responsibility to undertake projects of its own. Rather, the Advisory Committee's function in this regard shall be to provide input on specific, precisely defined issues as directed by the Commission and serve as a sounding board for the Commission. It shall not receive projects from staff nor direct staff; however, communication with staff shall be encouraged and maintained.

The Advisory Committee shall schedule as far in advance as practical at least four meetings annually, any one or more of which may be cancelled if deemed not necessary by the Chairman. One of the four scheduled meetings shall be with the Commission or its representatives, preferably at or near the site of the Commission meeting and the day before.

The Chairman of the Advisory Committee shall attend Commission meetings and serve as spokesman for the Advisory Committee.

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Advisory Committee Meeting

August 23, 1979
Sacramento

The meeting was called to order at 9:38 a.m. by Chairman Bob Wasserman.

PRESENT

Bob Wasserman	CPOA	Chief of Police, Fremont Police Department
J. Winston Silva	Community Colleges	Supervisory, Criminal Justice Education and Training California Community Colleges
Edwin Meese III	Public	Attorney at Law
John Riordan	PORAC	Sergeant, San Rafael Police Department
Dale Rickford	CAPTO	Captain, Antioch Police Department
Barbara Ayres	WPOA	Captain, Orange County Sheriff's Department
Jay Rodriguez	Commissioner	Manager, Community Relations KNBC-4, Los Angeles
Bob Edmonds	Commissioner	Assistant Sheriff Los Angeles Sheriff's Dept.
Louis Sporrer	Commissioner	Assistant Chief - Retired Los Angeles Police Department
Wayne Caldwell	Specialized Law Enforcement	California State Employees' Association
Larry Watkins	CHP	Commander, Training Division California Highway Patrol
C. Alex Pantaleoni	CAAJE	Rio Hondo College
George Tielsch	CPCA	Chief of Police, Anaheim Police Department
Herb Ellingwood	Public	Attorney at Law

STAFF PRESENT

Norman Boehm

Executive Director

Bradley Koch

Assistant Director
Operations Division

Bill Stahr

Bureau Chief
Executive Office

Sally Carney

Recording Secretary, POST
Advisory Committee

INTRODUCTIONS

The Organizational Survey Committee of the Commission, made up of Lou Sporrer, Bob Edmonds, and Jay Rodriguez, was introduced to the Advisory Committee. Newly appointed Advisory Committee member, Herb Ellingwood, late of the POST Commission, was also introduced. Chairman Bob Wasserman then presented the new Executive Director, Norman C. Boehm. Mr. Boehm expressed his pleasure at the opportunity to meet those in attendance.

APPROVAL OF MARCH 28th MINUTES

MOTION: Wayne Caldwell, second by Alex Pantaleoni, the minutes of the March 28, 1979 meeting be approved as written. MOTION CARRIED.

ROLE OF THE ADVISORY COMMITTEE

The main reason for the meeting was to discuss the future role of the Advisory Committee. Commissioner Sporrer opened up the discussion stating that it was the conclusion of the Commission that the Advisory Committee serves a useful purpose and should be retained; however, clarification of the role of the Committee was needed. A role statement prepared by the Organizational Survey Committee for the July Commission meeting, and mailed out to all Advisory Committee members prior to this meeting, was reviewed. It was the consensus of the group that this statement was more direction than previously received and was of great value in clarifying what the Advisory Committee was supposed to do for the Commission. The following are the major points that were made in the ensuing discussion:

Frequency of Meetings: It was suggested that the Advisory Committee have four scheduled meetings a year, one of which to be back-to-back but previous to a Commission meeting. The purpose of the latter meeting would be to schedule some time for the full Advisory Committee to meet with an Ad Hoc Committee the day before a Commission meeting, thus allowing for an informal interchange of ideas between the Advisory Committee and the Commission. Another suggestion was that it is unnecessary for the Advisory Committee to sit at the Commissioners' table as a Committee. It will suffice to have the Chairman represent the Committee at the Commission meetings. This allows the Committee members to either leave after the Committee meeting or attend the Commission meeting as members of the audience.

The other scheduled meetings could be held the month prior to the Commission meetings to afford the Advisory Committee the chance to discuss the Commission agenda. An element of flexibility must be maintained in case a meeting is cancelled for lack of business, or the Commission assigns a task requiring more than four meetings a year to handle the project.

Direct Communication: "Filtered" information was another concern of the Commission. The Commission wants information direct from the Committee. It prefers that it not go through too many channels before reaching the Commission. The point was that the Advisory Committee report to the Commission and not to staff. The probability of reduced or "colored" information would be lessened considerably if communication was direct.

Information Influx: How much information does the Advisory Committee need? To maximize the ability of the Advisory Committee to perform its function it is essential it be kept up-to-date on POST matters of high priority. Although the subject may not directly relate to any task or tasks the Commission has assigned the Committee, a better job can be done if committee members bring to the task a wealth of related, as well as direct knowledge of POST. Examples of this would be legislation, fiscal review, etc.

Another essential tool for the Advisory Committee is the Commission agenda before the Commission meeting and then, of course, the Commission minutes. These are presently being received. All Advisory Committee members receive this information and, in this way, can determine the Committee's interest.

Task Assignment Oriented Role: It was the consensus of the Organizational Survey Committee that the role of the Advisory Committee should address itself to what is assigned to them by the Commission. As individuals representing their constituencies, they can always give their personal input to the Commission through a lobbying process. But input on the Advisory Committee level on what they want to research or delve into is not a task the Commission expects of the Committee. There are not to be any Committee-initiated tasks or, also, staff-initiated tasks. It is the Commission's responsibility alone to assign the Advisory Committee a direction to follow, a policy to maintain, or a task that needs resolution. This is not to say the Advisory Committee cannot bring to the attention of the Commission issues that the Commission in the past elected not to face and, in the opinion of the Committee, are in need of some action on the part of the Commission. The climate of the Commission has changed dramatically since its inception and a Commission decision of old could change. But the Committee must abide by the Commission's election to face the controversial issue or not. An example of this is private security. In the past, the Commission has elected to stay out of this issue. At some future point in time, perhaps at the urging of the Advisory Committee, the Commission may elect to take a position on this issue and, possibly, assign the Committee to develop research into the project. But the bottom line is that the Committee is task oriented. It is not part of their role to initiate work for themselves.

Closing Remarks: It was felt a more descriptive charter was needed to incorporate the comments of the day's meeting into the role statement already disseminated. This was to be prepared by staff after distillation of minutes. Commissioner Sporrer

said the charter should convey to a new Commissioner or Committee member the purpose of the Advisory Committee without being too detailed or complex.

NEXT MEETING: The next meeting of the Advisory Committee will be October 24, 1979, in the POST's Directors' Conference Room, 9:30 a.m. - 4:30 p.m. This meeting will afford the Advisory Committee members an opportunity to meet with the Commission members of the Organizational Survey Committee in the afternoon's part of our meeting, and also an opportunity to get together with other Commissioners who will be in town for the Commission meeting on October 25-26, 1979.

New Business: A short description of each individual's constituency is requested to be sent to Chairman Bob Wasserman. For your convenience, his address follows:

Robert Wasserman
Chief of Police
Fremont Police Department
39710 Civic Center Drive
Fremont, California 94538

Chairman Wasserman introduced Sally Carney, the new Advisory Committee secretary.

There being no other business, the meeting was adjourned at 11:50 a.m.

Respectfully submitted,

Sally Carney

SALLY CARNEY
Recording Secretary

Distribution: Advisory Committee
POST Commission
POST Staff

AGENDA ITEM SUMMARY SHEET

Agenda Item Title Advisory Committee Appointments		Meeting Date October 25-26, 1979	
Division Executive Office	Division Director Approval <i>R.T. Allen</i>	Researched By Ronald T. Allen	
Executive Director Approval <i>Norman C. Boehm</i>	Date of Approval 12 October 1979	Date of Report October 5, 1979	
Purpose: Decision Requested <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Status Report <input type="checkbox"/> Financial Impact <input type="checkbox"/>		Yes (See Analysis per details) <input type="checkbox"/> No <input type="checkbox"/>	
In the space provided below, briefly describe the ISSUES, BACKGROUND, ANALYSIS and RECOMMENDATIONS. Use separate labeled paragraphs and include page numbers where the expanded information can be located in the report. (e.g., ISSUE Page _____).			

ISSUE

Appointing seven members to the POST Advisory Committee.

BACKGROUND

There are seven vacancies on the POST Advisory Committee. Six are due to terms expiring in September 1979, and one is due to the appointment of a member to the Commission.

ANALYSIS

The law enforcement related associations having representatives whose terms expired have been contacted. Also, a public member was contacted and expressed his desire to continue serving if reappointed. The nominees are as follows:

- . California Association of Administration of Justice Educators (CAAJE) Nominee: C. Alex Pantaleoni, Rio Hondo College
- . Women Peace Officers' Association (WPOA)
Nominee: Barbara Aryes, Captain, Orange County Sheriff's Dept.
- . California Peace Officers' Association (CPOA)
Nominee: Robert Wasserman, Chief, Fremont Police Department
- . Peace Officers' Research Association of California (PORAC)
Nominee: John Riordan, Sergeant, San Rafael Police Department
- . Public Member nominee: Edward Meese III, Attorney at Law, La Mesa, California

Chairman Holloway has nominated Robert H. Coombs to the public member vacancy position created by Jay Rodriguez's appointment to the Commission.

No nomination has been received from the California Association of Police Training Officers' (CAPTO), as of this writing.

Recommendation: Approve appointment of the above named nominees.

Utilize reverse side if needed

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Advisory Committee Meeting

August 23, 1979
Sacramento

The meeting was called to order at 9:38 a.m. by Chairman Bob Wasserman.

PRESENT

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Edwin Meese III	Public	Attorney at Law
John Riordan	PORAC	Sergeant, San Rafael Police Department
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Louis Sporrer	Commissioner	Assistant Chief - Retired Los Angeles Police Department
Wayne Caldwell	Specialized Law Enforcement	California State Employees' Association
Larry Watkins	CHP	Commander, Training Division California Highway Patrol
C. Alex Pantaleoni	CAAJE	Rio Hondo College
George Tielsch	CPCA	Chief of Police, Anaheim Police Department
Herb Ellingwood	Public	Attorney at Law

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Norman Boehm	Executive Director
Bradley Koch	Assistant Director Operations Division
Bill Stahr	Bureau Chief Executive Office
Sally Carney	Recording Secretary, POST Advisory Committee

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Robert Wasserman
Chief of Police
Fremont Police Department
39710 Civic Center Drive
Fremont, California 94538

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Respectfully submitted,

Sally Carney

SALLY CARNEY
Recording Secretary

Distribution: Advisory Committee
POST Commission
POST Staff

CODE OF PROFESSIONAL CONDUCT AND RESPONSIBILITIES
FOR
PEACE OFFICERS

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California Peace Officers' Association
1107 Ninth Street, Suite 800
Sacramento, California 95814

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FORWARD

Law Enforcement, like other professions, must establish minimum standards of ethical conduct for its officers. In 1959, the Law Enforcement Code of Ethics was developed through the efforts of this Association, the Peace Officers' Research Association of California and others. Although the Code of Ethics remains today a universally accepted and valid statement of peace officer conduct, there was need for a more detailed statement for peace officers of all ranks. Thus, this Code of Professional Conduct and Responsibility is a vital supplement to the Law Enforcement Code of Ethics.

To provide recognition to California's peace officers that is so richly deserved, this Code has been copyrighted by the California Peace Officers' Association in their behalf. Permission for reprinting this Code is granted for non-profit purposes. Additional copies of the Code may also be purchased at cost from CPOA.

Law enforcement is deeply indebted to present and past members of CPOA's Standards and Ethics Committee for their contribution. It is our hope this Code will enhance the spirit of professionalism for peace officers everywhere.

Acknowledgements

Past and Present Members of the Standards and Ethics Committee California Peace Officers' Association

Commander Lou Reiter
Los Angeles Police Department
Chairman
Chief Donald Becker
San Leandro Police Department
Glen E. Fine
POST
Chief George Garcia
Gonzales Police Department
Captain James Guess
Orange County Sheriff's Department
Chief William E. Kirkpatrick
Union City Department
Chief Arthur LeBlanc
Coronado Police Department
Richard Phillips, Undersheriff
Sacramento County
George Rush, Professor
Department of Criminal Justice
Lieutenant David Spisak
San Diego Police Department
John Thompson
Department of Justice
Chief James Wright
Sausalito Police Department
Donald Oliver, Undersheriff (Retired)
San Diego County Sheriff's Department
Chairman
Chief Julio A. Cecchetti
Stockton Police Department
Herbert Ellingwood
Attorney At Law
Chief N.J. Gibson
Arcada Police Department
Inspector John Graham
Los Angeles County Sheriff's Department
Tim Storton
San Luis Obispo County

CODE OF PROFESSIONAL CONDUCT AND RESPONSIBILITY
FOR
PEACE OFFICERS

I. PREAMBLE

WHEREAS, peace officers are vested with a public trust which requires that they consistently demonstrate the highest degree of integrity and good moral character; and

WHEREAS, the need to maintain high standards of moral character, integrity, knowledge, and trust requires the establishment of a Code of Professional Conduct and Responsibility for Peace Officers as a matter of the highest significance to the health, welfare, and safety of the citizens of this state; and

WHEREAS, the establishment of a Code of Professional Conduct and Responsibility for Peace Officers, which includes Canons of Ethics and minimum standards, requires the granting of authority to enforce these standards of professional conduct through disciplinary action as necessary for the protection of the health, welfare, and safety of the public;

BE IT RESOLVED that the need to maintain high standards of moral character, integrity, knowledge, and trust require that peace officers establish and conform to a Code of Professional Conduct and Responsibility for Peace Officers.

II. GENERAL STATEMENT

Peace Officers are granted a public trust which requires that they consistently demonstrate the highest degree of integrity. To be worthy of this public trust, and to ensure that their professional conduct is above reproach, members of the peace officer profession must not only conform to a Code of Ethics but must also abide by these Canons of Ethics and Ethical Standards which constitute this Code of Professional Conduct and Responsibility as a means of internal regulation.

The essence of a profession requires that in addition to prescribing a desired level of performance, it must establish minimum standards of ethical conduct with prescribed rules for internal discipline to ensure compliance. Accordingly, this Code of Professional Conduct and Responsibility is established for the peace officer profession.

Nothing in the Code of Professional Conduct and Responsibility for Peace Officers is intended to limit or supersede any provision of law relating to the duties and obligations of peace officers or the consequences of a violation thereof. Whereas these rules specify certain conduct as unprofessional, this is not to be interpreted as approval of conduct not specifically mentioned.

Nothing in this Code is intended to limit the authority of an agency to adopt and enforce rules and regulations that are more stringent or comprehensive than those that are contained in this Code of Professional Conduct and Responsibility for Peace Officers.

III. DEFINITIONS

This Code of Professional Conduct and Responsibility for Peace Officers is comprised of nine Canons of Ethics, with explanatory statements in the form of Ethical Standards. Examples of Disciplinary Rules and Enforcement Procedures are included as an addendum for individual agency consideration. Following are definitions of these terms, as used in the context of the code.

- A. "PEACE OFFICER" means a regular employed and full-time sheriff, undersheriff, or deputy sheriff of a county; a chief of police, or any police officer of a city or any chief of police or police officer of a district authorized by law to maintain a police department, or any other person within the state who is defined as a peace officer.
- B. "CANONS" are statements which express in general terms standards of professional conduct expected of peace officers in their relationship with the public, the criminal justice system, and the peace officer profession. They embody the general concepts from which the Ethical Standards and the Disciplinary Rules are derived.
- C. "ETHICAL STANDARDS" are statements that represent the objectives toward which every peace officer shall strive. They constitute principles that can be relied upon by the peace officer for guidance in specific situations.
- D. "DISCIPLINARY RULES" specify an unacceptable level of conduct for all peace officers, regardless of their rank or the nature of their assignment. Any peace officer who violates any agency rule that applies to these canons and standards is guilty of unprofessional conduct, and is subject to disciplinary action. Violation of disciplinary rules requires appropriate adjudication and disciplinary action ranging from oral reprimand to termination and/or criminal prosecution or other administrative action sanctioned by law, as dictated by the individual case.

- E. "ENFORCEMENT PROCEDURES" are the fundamental rights of an accused officer which are applicable to a disciplinary investigation or proceeding against the officer.
- F. "ADMINISTRATIVE INVESTIGATION" is an investigation conducted to determine whether an officer has violated any provision of this code, or an agency rule or regulation; or whether an officer is impaired or unfit to perform the duties and responsibilities of a peace officer.
- G. "FORMAL DISCIPLINE" refers to the final adjudication of administrative or disciplinary charges. Formal discipline shall be deemed final only after an officer has exhausted or waived all legal remedies available and actual discipline has been invoked.

IV. CANONS OF ETHICS

CANON ONE

PEACE OFFICERS SHALL UPHOLD THE CONSTITUTION OF THE UNITED STATES, THE STATE CONSTITUTION, AND ALL LAWS ENACTED OR ESTABLISHED PURSUANT TO LEGALLY CONSTITUTED AUTHORITY.

ETHICAL STANDARDS

- STANDARD 1.1 Peace officers shall recognize that the primary responsibility of their profession and of the individual officer is the protection of the people within the jurisdiction of the United States through upholding of their laws, the most important of which are the Constitution of the United States and State Constitutions and laws derived therefrom.
- STANDARD 1.2 Peace officers shall be aware of the extent and the limitations of their authority in the enforcement of the law.
- STANDARD 1.3 Peace officers shall diligently study principles and new enactments of the laws they enforce.
- STANDARD 1.4 Peace officers shall be responsible for keeping abreast of current case law as applied to their duties.
- STANDARD 1.5 Peace officers shall endeavor to uphold the spirit of the law, as opposed to enforcing merely the letter of the law.
- STANDARD 1.6 Peace officers shall respect and uphold the dignity, human rights, and Constitutional rights of all persons.

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CANON TWO

PEACE OFFICERS SHALL BE AWARE OF AND SHALL USE PROPER AND ETHICAL PROCEDURES IN DISCHARGING THEIR OFFICIAL DUTIES AND RESPONSIBILITIES.

ETHICAL STANDARDS

- STANDARD 2.1 Peace officers shall be aware of their lawful authority to use that force reasonably necessary in securing compliance with their lawful enforcement duties.
- STANDARD 2.2 Peace officers shall truthfully, completely, and impartially report, testify, and present evidence in all matters of an official nature.
- STANDARD 2.3 Peace officers shall follow legal practices in such areas as interrogation, arrest or detention, searches, seizures, use of informants, and collection and preservation of evidence.
- STANDARD 2.4 Peace officers shall follow the principles of integrity, fairness, and impartiality in connection with their duties.

CANON THREE

PEACE OFFICERS SHALL REGARD THE DISCHARGE OF THEIR DUTIES AS A PUBLIC TRUST AND SHALL RECOGNIZE THEIR RESPONSIBILITIES TO THE PEOPLE WHOM THEY ARE SWORN TO PROTECT AND SERVE.

ETHICAL STANDARDS

- STANDARD 3.1 Peace officers, as professionals, shall maintain an awareness of those factors affecting their responsibilities.
- STANDARD 3.2 Peace officers, during their tour of duty, shall diligently devote their time and attention to the effective and professional performance of their responsibilities.
- STANDARD 3.3 Peace officers shall ensure that they are prepared for the effective and efficient undertaking of their assignment.
- STANDARD 3.4 Peace officers shall safely and efficiently use equipment and material available to them.
- STANDARD 3.5 Peace officers shall be prepared to and shall respond effectively to the demands of their office.

- STANDARD 3.6 Peace officers, with due regard for compassion, shall maintain an objective and impartial attitude in official contacts.
- STANDARD 3.7 Peace officers shall not allow their personal convictions, beliefs, prejudices, or biases to interfere unreasonably with their official acts or decisions.
- STANDARD 3.8 Peace officers shall recognize that their allegiance is first to the people, then to their profession and the governmental entity or agency that employs them.

CANON FOUR

PEACE OFFICERS WILL SO CONDUCT THEIR PUBLIC AND PRIVATE LIFE THAT THEY EXEMPLIFY THE HIGH STANDARDS OF INTEGRITY, TRUST, AND MORALITY DEMANDED OF A MEMBER OF THE PEACE OFFICER PROFESSION.

ETHICAL STANDARDS

- STANDARD 4.1 Peace officers shall refrain from consuming intoxicating beverages to the extent that it results in impairment which brings discredit upon the profession or their employing agency, or renders them unfit for their next tour of duty.
- STANDARD 4.2 Peace officers shall not consume intoxicating beverages while on duty, except to the degree permitted in the performance of official duties, and under no circumstances while in uniform.
- STANDARD 4.3 Peace officers shall not use any narcotics, hallucinogens, or any other controlled substance except when legally prescribed. When such controlled substances are prescribed, officers shall notify their superior officer prior to reporting for duty.
- STANDARD 4.4 Peace officers shall maintain a level of conduct in their personal and business affairs in keeping with the high standards of the peace officer profession. Officers shall not participate in any incident involving moral turpitude.

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- STANDARD 4.5 Peace officers shall not undertake financial obligations which they know or reasonably should know they will be unable to meet and shall pay all just debts when due.
- STANDARD 4.6 Peace officers shall not engage in illegal political activities.
- STANDARD 4.7 Peace officers shall not permit or authorize for personal gain the use of their name or photograph and official title identifying them as peace officers in connection with testimonials or advertisements for any commodity, commercial enterprise, or commercial service which is not the product of the officer involved.
- STANDARD 4.8 Peace officers shall not engage in any activity which would create a conflict of interest or would be in violation of any law.
- STANDARD 4.9 Peace officers shall at all times conduct themselves in a manner which does not discredit the peace officer profession or their employing agency.
- STANDARD 4.10 Peace officers shall not be disrespectful, insolent, mutinous, or insubordinate in attitude or conduct.
- STANDARD 4.11 Peace officers shall be courteous and respectful in their official dealings with the public, fellow officers, superiors and subordinates.
- STANDARD 4.12 Peace officers shall not engage in any strike, work obstruction or abstention, in whole or in part, from the full, faithful and proper performance of their assigned duties and responsibilities, except as authorized by law.
- STANDARD 4.13 Peace officers shall maintain a neutral position with regard to the merits of any labor dispute, political protest, or other public demonstration, while acting in an official capacity.

CANON FIVE

PEACE OFFICERS SHALL RECOGNIZE THAT OUR SOCIETY HOLDS THE FREEDOM OF THE INDIVIDUAL AS A PARAMOUNT PRECEPT WHICH SHALL NOT BE INFRINGED UPON WITHOUT, JUST, LEGAL, AND NECESSARY CAUSE.

ETHICAL STANDARDS

- STANDARD 5.1 Peace officers shall not restrict the freedom of individuals, whether by detention or arrest, except to the extent necessary to legally and reasonably apply the law.

- STANDARD 5.2 Peace officers shall recognize the rights of individuals to be free from capricious or arbitrary acts which deny or abridge their fundamental rights as guaranteed by law.
- STANDARD 5.3 Peace officers shall not use their official position to detain any individual, or to restrict the freedom of any individual, except in the manner and means permitted or prescribed by law.

CANON SIX

PEACE OFFICERS SHALL ASSIST IN MAINTAINING THE INTEGRITY AND COMPETENCE OF THE PEACE OFFICER PROFESSION.

ETHICAL STANDARDS

- STANDARD 6.1 Peace officers shall recognize that every person in our society is entitled to professional, effective, and efficient law enforcement services.
- STANDARD 6.2 Peace officers shall perform their duties in such a manner as to discourage double standards.
- STANDARD 6.3 Peace officers shall conduct themselves so as to set exemplary standards of performance for all law enforcement personnel.
- STANDARD 6.4 Peace officers shall maintain the integrity of their profession through complete disclosure of those who violate any of these rules of conduct, violate any law, or who conduct themselves in a manner which tends to discredit the profession.
- STANDARD 6.5 Peace officers shall have responsibility for reporting to proper authorities any known information which would serve to disqualify candidates from transferring within or entering the profession.
- STANDARD 6.6 Peace officers shall be responsible for maintaining a level of education and training that will keep them abreast of current techniques, concepts, laws, and requirements of the profession.
- STANDARD 6.7 Chief executive peace officers shall accept the responsibility of utilizing all available resources and the authority of their office to maintain the integrity of their agency and the competency of their officers. These Canons and Ethical Standards shall apply to all legally defined peace officers regardless of rank.

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STANDARD 6.8 Peace officers shall assume a leadership role in furthering their profession by encouraging and assisting in the education and training of other members of the profession.

CANON SEVEN

PEACE OFFICERS SHALL COOPERATE WITH OTHER OFFICIALS AND ORGANIZATIONS WHO ARE USING LEGAL AND ETHICAL MEANS TO ACHIEVE THE GOALS AND OBJECTIVES OF THE PEACE OFFICER PROFESSION.

ETHICAL STANDARDS

STANDARD 7.1 Peace officers, within legal and agency guidelines, shall share with personnel both within and outside their agency, appropriate information that will facilitate the achievement of criminal justice goals or objectives.

STANDARD 7.2 Peace officers, whether requested through appropriate channels or called upon individually, shall render needed assistance to any other officer in the proper performance of their duty.

STANDARD 7.3 Peace officers shall, within legal and agency guidelines, endeavor to communicate to the people of their community the goals and objectives of the profession, and keep them apprised of conditions which threaten the maintenance of an ordered society.

CANON EIGHT

PEACE OFFICERS SHALL NOT COMPROMISE THEIR INTEGRITY, NOR THAT OF THEIR AGENCY OR PROFESSION, BY ACCEPTING, GIVING OR SOLICITING ANY GRATUITY.

ETHICAL STANDARDS

STANDARD 8.1 Peace officers shall refuse to offer, give, or receive gifts, favors or gratuities, either large or small, which can be reasonably interpreted as capable of influencing official acts or judgments. This standard is not intended to isolate peace officers from normal social practices, or to preclude gifts among friends, associates, or relatives, where appropriate.

STANDARD 8.2 Peace officers shall not consider their badge of office as a license designed to provide them with special favor or consideration.

CANON NINE

PEACE OFFICERS SHALL OBSERVE THE CONFIDENTIALITY OF INFORMATION AVAILABLE TO THEM THROUGH ANY SOURCE, AS IT RELATES TO THE PEACE OFFICER PROFESSION.

ETHICAL STANDARDS

- STANDARD 9.1 Peace officers shall be aware of and shall meticulously observe all legal restrictions on the release and dissemination of information.
- STANDARD 9.2 Peace officers shall treat as confidential the official business of their employing agency, and shall release or disseminate such information solely in an authorized manner.
- STANDARD 9.3 Peace officers shall treat as confidential that information confided to them personally. They shall disclose such information as required in the proper performance of their duties.
- STANDARD 9.4 Peace officers shall neither disclose nor use for their personal interest any confidential information acquired by them in the course of their official duties.
- STANDARD 9.5 Peace officers shall treat as confidential all matters relating to investigations, internal affairs, and personnel.

V. INVESTIGATIVE PROVISIONS

(Optional provisions of this section may require legislation)

- A. INVESTIGATIVE PROCEDURES. Peace officers under investigation for an alleged violation of any of these standards or agency disciplinary rules shall be afforded, as a minimum, the rights established by law and contract, to ensure fair and just treatment in the enforcement of disciplinary rules of conduct or agency rules.
- B. EXERCISE OR RIGHTS. By reason of the lawful exercise of rights, officers shall not be discharged, disciplined, demoted, transferred, or denied promotion or reassignment, or discriminated against with regard to employment, nor threatened with any such action.
- C. CRIMINAL INVESTIGATIONS. When the investigation focuses on an officer for prosecution of a criminal offense, the officer shall be afforded the same constitutional rights, privileges, or guarantees enjoyed by any person. This section, however, shall not deprive the agency of the right to pursue the investigation administratively.

- D. AGENCY APPEAL OR REVIEW PROCESS. To ensure due process, officers shall be provided with an internal administrative appeal or review process or procedure. This process shall be in addition to any external appeal process the employing agency may have established for the review of disciplinary cases.

VI. RECOMMENDED PROVISIONS REQUIRING STATE LEGISLATION

- A. ADMISSIBILITY. No Canon or Ethical Standard, or the enforcement of a Canon, Ethical Standard, or agency disciplinary rule, shall be admissible as evidence of a standard of care or negligence in any civil action other than administrative or disciplinary proceedings.
- B. CONFIDENTIALITY OF INVESTIGATIVE FILES. To promote the complete investigation and reporting of complaints against peace officers, the (state/county/city) finds that the need to preserve and protect the work product of an agency outweighs the public interest in full or partial disclosure, discovery, or production in any manner of an agency's investigative files pertaining to complaints against officers. Accordingly, administrative investigative files, records, reports or other documentation may be subpoenaed in either criminal or civil proceedings only in accordance with existing law.
- C. CONSTRUCTION AND SEVERABILITY. The provisions of this Code shall be severable and if any phrase, clause, sentence or provision of this Code is declared to be unconstitutional or the applicability thereof to any agency, person, or circumstance is held invalid, the constitutionality of this Code and the applicability thereof to any other agency, person or circumstance shall, with respect to all severable matters, not be affected thereby. It is intended that the provisions of this Code be reasonably and liberally construed.

Memorandum

: COMMISSIONERS

Date : October 24, 1979

Reviewed
Norman C. Boehm
Executive Director

From : Commission on Peace Officer Standards and Training

Subject: Contract Approval

The Research and Evaluation Bureau is currently conducting validation research under LEAA funding to develop job related physical performance selection tests for entry-level patrol officer positions in police and sheriff departments. POST staff researchers are experts in test construction and validation, but have limited background in exercise physiology.

It is necessary for the success of this project that POST, under the budget provisions of the LEAA grant, contract for consultant services to assist in the development of: (1) survey instruments to be used to collect detailed information about relevant physical activities performed by entry-level patrol officers; (2) simulations of physical activities performed on the job; (3) measurements to predict on the job performance; (4) and field testing of prototype tests to a representative sample of applicants for the patrol officer job; (5) and training for POST project staff; (6) instructions for test administration, for test candidates, etc. In addition, consultant services are needed to assist in reviewing and interpreting collected data, and drafting a final report of the physical performance project findings and recommendations.

The contractual services of Dr. Ed Bernauer and Human Stress Analysis, Inc., Davis, California are proposed. The maximum amount payable under the proposed contract is not to exceed \$22,500. Dr. Bernauer has extensive background in exercise physiology and is a leading authority in this field. Recently he has contracted with the State to develop entry-level selection tests of physical ability for the California State Police and Personnel Board, and is presently concluding establishing physical fitness maintenance standards for the California Highway Patrol's personnel. Another qualified consultant in this field is located in Texas. Communications and availability of this firm to assist us in California would be quite difficult and not cost effective.

Recommendation:

Authorize staff to contract with Human Stress Analysis, Inc.

NCB/GWW/lr

STANDARD AGREEMENT

APPROVED BY THE
ATTORNEY GENERALSTATE OF CALIFORNIA
STD. 2 (REV. 11/76)☐ STATE AGENCY
☐ DEPT. OF GEN. SER.
☐ CONTROLLER

THIS AGREEMENT, made and entered into this 1st day of November, 19 79,
in the State of California, by and between State of California, through its duly elected or appointed,
qualified and acting

TITLE OF OFFICER ACTING FOR STATE
Executive Director

AGENCY

Training
Commission on Peace Officer Standards andTELEPHONE
79-405-14

hereinafter called the State, and

HUMAN STRESS ANALYSIS, INC.

hereinafter called the Contractor.

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State
hereinafter expressed, does hereby agree to furnish to the State services and materials, as follows:

(Set forth services to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans and specifications, if any.)

The contractor agrees on a mutually acceptable schedule to:

1. Assist POST in the development of job analysis data collection instruments.
2. Using the results of the job analysis, construct physical job task simulations and select appropriate measures of physical strength, endurance and flexibility for inclusion in a physical performance test battery.
3. Field test and revise as necessary all tests included in the physical performance test battery.
4. Train POST staff to administer the field-tested physical performance test battery.

The provisions on the reverse side hereof constitute a part of this agreement.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA

CONTRACTOR

AGENCY
Training
Commission on Peace Officer Standards andCONTRACTOR (IF OTHER THAN AN INDIVIDUAL, STATE WHETHER A CORPORATION
PARTNERSHIP, ETC.)

HUMAN STRESS ANALYSIS, INC.

BY (AUTHORIZED SIGNATURE)

BY (AUTHORIZED SIGNATURE)

TITLE Executive Director

TITLE President

1113 TIERRA LINDA, AS BELOWS

ADDRESS

34 Meadowbrook Ave., Davis, CA 95616

CONTINUED ON SHEETS EACH BEARING NAME OF CONTRACTOR

Department of General Services
Use ONLY

AMOUNT INCURRED

\$22,500.00

UNINCURRED BALANCE

\$

ADD. INCREASING ENCUMBRANCE

\$

ADD. DECREASING ENCUMBRANCE

\$

APPROPRIATION

Support

FUND

LEAA

FISCAL YEAR

1979

LINE ITEM ALLOTMENT

Contractual Services

I hereby certify upon my own personal knowledge that budgeted funds
are available for the period and purpose of the expenditure stated above.

T.B.A. NO.

B.H. NO.

SIGNATURE OF ACCOUNTING OFFICER

DATE

I hereby certify that all conditions for exemption set forth in State Administrative Manual Section 1209
have been complied with and this document is exempt from review by the Department of Finance.

SIGNATURE OF OFFICER SIGNING ON BEHALF OF THE AGENCY

DATE

HUMAN STRESS ANALYSIS, INC.
#79-405-14

5. Provide all necessary forms (instructions for test administrators and test subjects, test descriptions, data collection forms, etc.) and administer the field-tested physical performance test battery to a minimum of 240 subjects located throughout the state.
6. Review and evaluate all analyses performed by POST on the test data.
7. On the basis of the findings of #6 above, specify recommended physical performance test items for inclusion in a physical performance test item pool that can be used by local agencies to select entry-level patrol officers.
8. Assist POST in documenting the relationship of each test item in the item pool to the physical requirements of the entry-level patrol job.
9. Provide a test manual including test descriptions, administration procedures, scoring forms, instructions, tables, etc., for all test items in the item pool.
10. Assist POST in constructing job analysis data collection forms and associated instructions, and any other materials that local agencies may need to: (1) document the physical requirements of the patrol job as it exists in their agency, (2) select the test items from the item pool that are the most appropriate for their agency, (3) determine the most appropriate minimum passing scores for each test item, and (4) design a physical maintenance program for incumbent officers.
11. Review and summarize in writing the relevant scientific literature and provide additional assistance, as requested, in the preparation of a technical report of project findings.

POST shall have full rights to use and reproduce and to authorize others to use and reproduce all manuals, reports, data and other materials deliverable under this contract.

HUMAN STRESS ANALYSIS, INC.
#79-405-14

Included in this agreement, POST will allocate the following sums for fulfillment of this agreement: Consulting fees: \$135.00 per day; Consulting Assistants' fees \$7.50 per hour (excluding travel) up to a maximum of \$48.75 per day; Travel and Per Diem: as provided in the State Board of Control Rules.

POST will provide duplicating and data processing services.

The maximum amount payable to the Contractor shall not exceed \$22,500.00. This amount includes salaries, travel, miscellaneous expenses and any and all equipment developed and accepted by POST.

Contractor will submit biweekly reports documenting time spent on project activities.

Contractor shall invoice POST on a monthly basis for all activities completed during the month covered by the invoice.

This service will be rendered beginning on November 1, 1979 and concluding on June 30, 1980. However, if the LEAA grant funding this study is not extended through June 30, 1980, the contract will terminate April 30, 1980.

This contract may be cancelled by either party upon thirty (30) days written notice.

The attached Fair Employment Practices Addendum is by reference incorporated and made a part of this contract.

The attached Office of Criminal Justice Planning's Standard Contract Provisions are by reference incorporated and made a part of this contract.

FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this contract, the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex*, age*, national origin, or physical handicap*. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, ancestry, sex*, age*, national origin, or physical handicap*. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State setting forth the provisions of this Fair Employment Practices section.

2. The Contractor will permit access to his/her records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices Commission, or any other agency of the State of California designated by the awarding authority, for the purpose of investigation to ascertain compliance with the Fair Employment Practices section of this contract.

3. Remedies for Willful Violation:

- (a) The State may determine a willful violation of the Fair Employment Practices provision to have occurred upon receipt of a final judgement having that effect from a court in an action to which Contractor was a party, or upon receipt of a written notice from the Fair Employment Practices Commission that it has investigated and determined that the Contractor has violated the Fair Employment Practices Act and has issued an order, under Labor Code Section 1426, which has become final, or obtained an injunction under Labor Code Section 1429.
- (b) For willful violation of this Fair Employment Practices provision, the State shall have the right to terminate this contract either in whole or in part, and any loss or damage sustained by the State in securing the goods or services hereunder shall be borne and paid for by the Contractor and by his/her surety under the performance bond, if any, and the State may deduct from any moneys due or that thereafter may become due to the Contractor, the difference between the price named in the contract and the actual cost thereof to the State.

*See Labor Code Sections 1411 - 1432.5 for further details.

OFFICE OF CRIMINAL JUSTICE PLANNING

STANDARD CONTRACT PROVISIONS

1. Grant Award. The (Subgrantee), hereinafter referred to as Subgrantee, and the Office of Criminal Justice Planning, hereinafter referred to as OCJP, entered into a grant award, No. _____, dated _____, hereinafter referred to as "grant award". Funds for this Agreement are made available, in whole or in part, by the grant award and the grant award is incorporated in this Agreement. The Subgrantee will retain ultimate control and responsibility for performance under the grant award. The Contractor shall only be bound by those provisions of the grant award that are pertinent to performance by the Contractor under this Agreement.
2. Assignment or Subcontracting. No performance of this Agreement or any portion thereof may be assigned or subcontracted by the Contractor without the express written consent of Subgrantee and any attempt by the Contractor to assign or subcontract any performance of this Agreement without the express written consent of Subgrantee shall be null and void and shall constitute a breach of this Agreement. Whenever the Contractor is authorized to subcontract or assign, he will include all the terms of this Agreement in each such subcontract or assignment.
3. Assurance of Compliance with Civil Rights Laws. The Contractor will comply with Title VI of the Civil Rights Act of 1964, as amended, and all requirements imposed by or pursuant to regulations of the Department of Justice and the Law Enforcement Assistance Administration (hereinafter referred to as LEAA) issued pursuant to that title, to the end that no person shall, on the grounds of race, creed, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement. The contractor will comply with Justice Department Equal Employment Regulations in federally-assisted programs (28 CFR Part 42, Subpart D) to the end that employment discrimination in such programs on the grounds of race, color, creed, sex, or national origin shall be eliminated. The Contractor recognizes the right of the United States to seek judicial enforcement of the foregoing covenants against discrimination.
4. Maintenance and Inspection of Contractual Records. The Comptroller General of the United States, or any of his duly authorized representatives shall have access to and the right to examine, audit, excerpt and transcribe any books, documents, papers and records of the Contractor which in the opinion of the Comptroller General may be related or pertinent to this Agreement. Such material must be kept and maintained for a period of three years after termination of the grant award or until an audit is completed by OCJP and LEAA and all questions arising therefrom are resolved, whichever is sooner.

LEAA and OCJP or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers and records of the Contractor which are related or pertinent to this Agreement. The books, documents, papers and records of the Contractor to which LEAA and OCJP or any of their duly authorized representatives shall have access to under the provisions of this paragraph shall not include any such materials which set forth the cost of the goods sold or leased under a fixed-price contract for off-the-shelf items resulting from a formally advertised procurement as defined in the LEAA financial guidelines.

5. Copyrights and Rights in Data. Where activities supported by this Agreement produce original computer programs, writing, sound recordings, pictorial reproductions, drawings or other graphical representation and works of any similar nature (the term computer programs includes executable computer programs and supporting data in any form), the OCJP, the LEAA, and Subgrantee reserve the right to use, duplicate and disclose, in whole or in part, in any manner for any purpose whatsoever, and to authorize others to do so. If any material described in the previous sentence is subject to copyright, the Subgrantee reserves the right to copyright such and the Contractor agrees not to copyright such material. If the material is copyrighted, the OCJP and the LEAA reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such materials, in the whole or in part, and to authorize others to do so.
6. Publications. Before publishing any materials produced by activities supported by this Agreement, the Subgrantee or its contractor (the contractor) shall notify OCJP 90 days in advance of any such intended publication and shall submit 20 copies of the materials to be published. Within 60 days after any such materials have been received by OCJP, OCJP shall submit to the Subgrantee its comments with respect to the materials intended to be published. The Subgrantee or its contractor shall determine, within 10 days after receipt of any such comments, whether or not to revise the materials to incorporate the comments of OCJP and shall advise OCJP of its determination within 15 days after such comments have been received by the Subgrantee or its contractor. If the Subgrantee or its contractor determines not to incorporate any of the comments of OCJP into the text of the materials, it may publish the materials provided that the initial preface or introduction to these materials as published contain the following:
 - A. A credit reference reading as follows: "The preparation of these materials was financially assisted through a federal grant from the Law Enforcement Assistance Administration and the California Office of Criminal Justice Planning and under Title I of the Crime Control Act of 1973."
 - B. A disclaimer statement reading as follows: "The opinions, findings, and conclusions in this publication are those of the author and not necessarily those of OCJP or LEAA. OCJP and LEAA reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish and use these materials, and to authorize others to do so. A copy of these materials may be obtained from OCJP or LEAA upon payment of the cost for reproducing the materials."

C. The comments of OCJP in full, unabridged, and unedited.

If the Subgrantee or its contractor wishes to incorporate some or any of the comments of OCJP in the text of the materials, it shall revise the materials to be published and resubmit them to OCJP which shall prepare comments on the resubmitted data within 30 days after receipt thereof. Within 10 days after receipt of these comments, the Subgrantee or its contractor shall determine whether or not to accept or adopt any of the comments on the revised materials as resubmitted to OCJP and shall advise OCJP of this determination within 15 days after receipt of the comments of OCJP. Thereafter, the materials may be published or revised in accordance with the procedures set forth above for the publication of materials on which OCJP has submitted its comments to the Subgrantee or its contractor.

If OCJP has not submitted its comments on any materials submitted to it within 90 days after OCJP has received any such materials, the Subgrantee or its contractor may proceed to publish the materials in the form in which they have been submitted to OCJP but shall include the credit statement and the disclaimer statement set forth above, but without any further comments.

7. Patents. If any discovery or invention arises or is developed in the course of or as a result of work performed under this Agreement, the Contractor shall refer the discovery or invention to Subgrantee and OCJP. The Contractor hereby agrees that determinations of rights to inventions or discoveries made under this Agreement shall be made by LEAA, or its duly authorized representative, who shall have the sole and exclusive powers to determine whether or not and where a patent application should be filed and to determine the disposition of all rights in such inventions or discoveries, including title to and license rights under any patent application or patent which may issue thereon. The determination of LEAA, or its duly authorized representative, shall be accepted as final. The Contractor agrees and otherwise recognizes that LEAA, OCJP, and Subgrantee shall acquire at least an irrevocable, non-exclusive, and royalty-free license to practice and have practiced throughout the world for governmental purposes any invention made in the course of or under this Agreement.
8. Contractor Work Hours and Safety Standards. If this Agreement provides for payment in excess of \$2,500 (\$2,000 for construction contracts) and involves the employment of mechanics or laborers, the Contractor agrees: a) That each mechanic or laborer will have wages computed on the basis of a standard work day of eight hours and a standard work week of forty hours. Work in excess of the standard work week or day is permissible provided that the worker is compensated at the rate of not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or forty hours in the work week; b) That no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation (29 CFR 1518). These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

9. Clean Air Act. If this Agreement provides for payment in excess of \$100,000, the Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970 (42 USC 1857, et seq.) and the Federal Water Pollution Control Act (33 USC 1251, et seq.), as amended.

10. Security and Privacy

A. The Contractor agrees that, except as provided by federal law other than the Crime Control Act of 1973 (42 U.S.C. Sections 3701 et seq.), none of its officers or employees shall use or reveal any research or statistical information furnished by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained. Copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

B. Criminal history information:

- (1) The term "criminal history information" includes records and related data, compiled by law enforcement agencies for purposes of identifying criminal offenders and alleged offenders and maintaining as to such persons summaries of arrest, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation and release.

- (2) If the Contractor utilizes "criminal history information", the Contractor shall comply with the following:

All criminal history information collected, stored, or disseminated shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the Contractor shall assure that the security and privacy of all information is adequately provided for and such information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete, or maintained in violation of the Crime Control Act of 1973, shall, upon satisfactory verification of his identity, be entitled to review such information to obtain a copy of it for the purpose of challenge or correction.

- C. Any person violating the Security and Privacy provisions of this Agreement or of the Crime Control Act of 1973 (42 U.S.C. Section 3771(c)) or any rule, regulations, or order issued thereunder, shall be fined not to exceed \$10,000 in addition to any other penalty imposed by law.

- D. The Contractor assures that the foregoing provisions of this Security and Privacy clause shall be incorporated into all of its subcontracts.

11. Termination

- A. The performance of work under this Agreement may be terminated by the Subgrantee in accordance with this clause in whole on 30 days written notice to the Contractor, or from time to time in part on 10 days written notice to the Contractor:

(1) Whenever the Contractor shall default in performance of this Agreement in accordance with its terms and shall fail to cure such default within a period of ten days after receipt from the Subgrantee of a notice specifying the default; or

(2) Whenever for any reason the Subgrantee shall determine that such termination is in the best interest of the Subgrantee.

Any such termination shall be effected by delivery to the Contractor of a notice of termination specifying whether termination is for default of the Contractor or for the convenience of the Subgrantee, the extent to which performance of work under the Agreement is terminated, and the date upon which such termination becomes effective.

- B. After receipt of a notice of termination and except as otherwise directed by the Subgrantee, the Contractor shall:

(1) Stop work under the Agreement on the date and to the extent specified in the notice of termination;

(2) Transfer title to the Subgrantee (to the extent that title has not already been transferred) and deliver in the manner, at the times, and to the extent directed by the Subgrantee, the work in process, completed work and other material produced as a part of, or acquired in respect of the performance, the work terminated.

- C. The amount due the Contractor by reason of termination shall be determined as follows:

(1) If this Agreement specifies payment on the basis of reimbursement of costs, without any fee or profit margin, there shall be included all costs and expenses reimbursable in accordance with this Agreement not previously paid the Contractor for the satisfactory performance of this Agreement prior to the effective date of the notice of termination, whether the termination is for the convenience of the Subgrantee or the default of the Contractor.

(2) If this Agreement specifies payment on any basis other than stated in paragraph 11.C.(1) above, and

- (a) If the termination is for the convenience of the Subgrantee, there shall be paid a percentage of all sums to which the Contractor would be entitled on completion of all work under the Agreement equivalent to the percentage of the completion of all the work contemplated by the Agreement;
- (b) If the termination of this Agreement is for the default of the Contractor, the total sum payable shall be such proportionate part of all sums to which the Contractor would be entitled on completion of all work under the Agreement as the total amount of work delivered to and accepted by the Subgrantee bears to the total work called for by this Agreement.

D. In the event of a partial termination, the portion of the sum which is payable with respect to the work under the continued portion of the Agreement shall be equitably adjusted by agreement between the Contractor and the Subgrantee, and such adjustment shall be evidenced by an amendment to this Agreement.

12. Disputes

- A. When the Contractor and the Subgrantee fail to agree as to whether or not any work is within the scope of this Agreement, the Contractor shall nevertheless immediately perform such work upon receipt from the Subgrantee of written order to do so. Within 15 calendar days after receipt of such order, the Contractor may submit a written protest to the Subgrantee, specifying in detail in what particulars the Agreement requirements were exceeded, and the approximate change in cost resulting therefrom so that the Subgrantee will have notice of a potential claim which may be filed by the Contractor.
- B. Failure to submit such protest within the period specified shall constitute a waiver of any and all right to adjustment in Agreement price and Agreement time due to such work, and the Contractor thereafter shall not be entitled to any adjustment of Agreement price or time therefor. For any such work which is found to exceed the Agreement requirements, there shall be an adjustment in Agreement price and Agreement time on the same basis as for any other change in the work.

13. Covenant Against Contingent Fees

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the

purpose of securing business. For breach or violation of this warranty the Subgrantee shall have the right to terminate this Agreement in accordance with the termination clause and, in its sole discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

14. Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
15. California Law. This Agreement shall be governed according to the laws of the State of California.
16. Exclusion from Competition. If the Contractor develops or drafts specifications, requirements, statements of work, or request for proposals for a proposed procurement, Contractor shall be excluded from bidding or submitting a proposal to compete for the award of such procurement.

Memorandum

MAXINE LINTNER, Supervisor
Office of Criminal Justice Planning

Date : October 25, 1979

From : Commission on Peace Officer Standards and Training

Subject: Sole Source Approval - Personal Services of Dr. Ed Bernauer,
Human Stress Analysis, Inc. (D-3384-1, 78-DF-AX-0046)

Introduction

The Commission on Peace Officer Standards and Training (POST) requests sole source approval to contract for the personal services of Dr. Ed Bernauer, Human Stress Analysis, Incorporated (HSA) for the period of November 1, 1979 to June 30, 1980 in the amount of \$22,500.00. The supporting documentation is presented in conformance with sections 3430 and 3474.100 of the OCJP Subgrantee Handbook relating to prior approval and sole source documentation.

Project Description

Under a grant from the Law Enforcement Assistance Administration (LEAA) POST is conducting validation research to develop job-related physical performance measures (tests) for selecting entry-level patrol officers. POST staff responsible for the project are experts in test construction and validation, but have a limited background in exercise physiology.

In order to ensure that the project is successful, it is necessary that POST contract for consultant services from leading authorities in exercise physiology. Specific services contracted for will include: (1) assistance in the development of survey instruments to be used to collect detailed information about the nature of physical activities performed by entry-level patrol officers; (2) assistance in the development of simulations of physical job activities that can be administered to job applicants to assess their ability to perform the physical aspects of the entry-level patrol job; (3) assistance in choosing physical efficiency measures that would be hypothesized to predict on the job performance on the physical job task simulations; (4) assistance in the administration of the physical efficiency measures and the simulations to individuals who are representative of typical applicants for the

patrol officer job; (5) training POST project staff to administer the physical efficiency measures and the simulations; (6) development of instructions for test administration, instructions for test candidates, data collection forms, etc.; (7) assistance in the review and interpretation of all analyses performed on the collected test data; and (8) assistance in the drafting of a final report of project findings and recommendations.

Sole Source Justification

The following justification is submitted in support of contracting directly with Dr. Ed Bernauer, of HSA, Incorporated:

1. Dr. Ed Bernauer, President of HSA, is a leading authority in exercise physiology (see attached vita). Dr. Bernauer and his staff will be available during the time period POST has scheduled for this activity. As President of HSA, Dr. Bernauer would personally spend a considerable amount of time (45 or more days) on the project, including personally overseeing all activities performed by his staff.
2. In addition to his extensive background, Dr. Bernauer is one of a group of very few exercise physiologists in the nation who has applied exercise physiology measurement techniques to the study of physical job requirements. Most notable among these studies is the work Dr. Bernauer has recently done to establish physical fitness maintenance standards for personnel in the California Highway Patrol. He has also contracted with the State to develop entry-level selection tests of physical ability for the California State Police and the California State Personnel Board.
3. Because HSA is located, less than 20 miles from Sacramento in Davis, California, their services are conveniently available to serve the project. Firms of similar competence in exercise physiology that might be able to perform the services desired by POST are located at some considerable distance from Sacramento (e. g., the Aerobics Institute in Dallas, Texas). In addition to the higher cost that is likely to be incurred by POST if it contracts with one of these other firms (due to higher travel costs, telephone charges, etc.), it is also anticipated that it would take an out of state consultant longer to complete the needed research for the project (due to the increase in administrative time that would likely be necessary to coordinate and

carry out project activities). Finally, HSA's familiarity with the application of exercise physiology techniques for developing entry-level physical selection standards for law enforcement far exceeds other firms.

4. LEAA funding for the project ceases April 30, 1980, thus because of the limited time remaining, it is critically important that POST contract with HSA and Dr. Bernauer to ensure that all activities are completed within the already determined schedule for the project. Because of the time constraints imposed by the grant award, it would be infeasible to seek competitive bids at this time.
5. As evidence of the unique qualifications of Dr. Bernauer and his firm, both the California Highway Patrol and the California State Personnel Board currently have sole source contracts with HSA.
6. Based upon discussions with representatives from both the California Highway Patrol and the California State Personnel Board, POST believes the fees for service outlined in the attached contract are consistent with the fees charged by HSA and which have been accepted by the State in previous contractual agreements.

If you have any questions or require additional information, please contact me at (916) 322-3492.

Sincerely,

GEORGE W. WILLIAMS, Chief
Research and Evaluation Bureau

GWG/lr
Attachment